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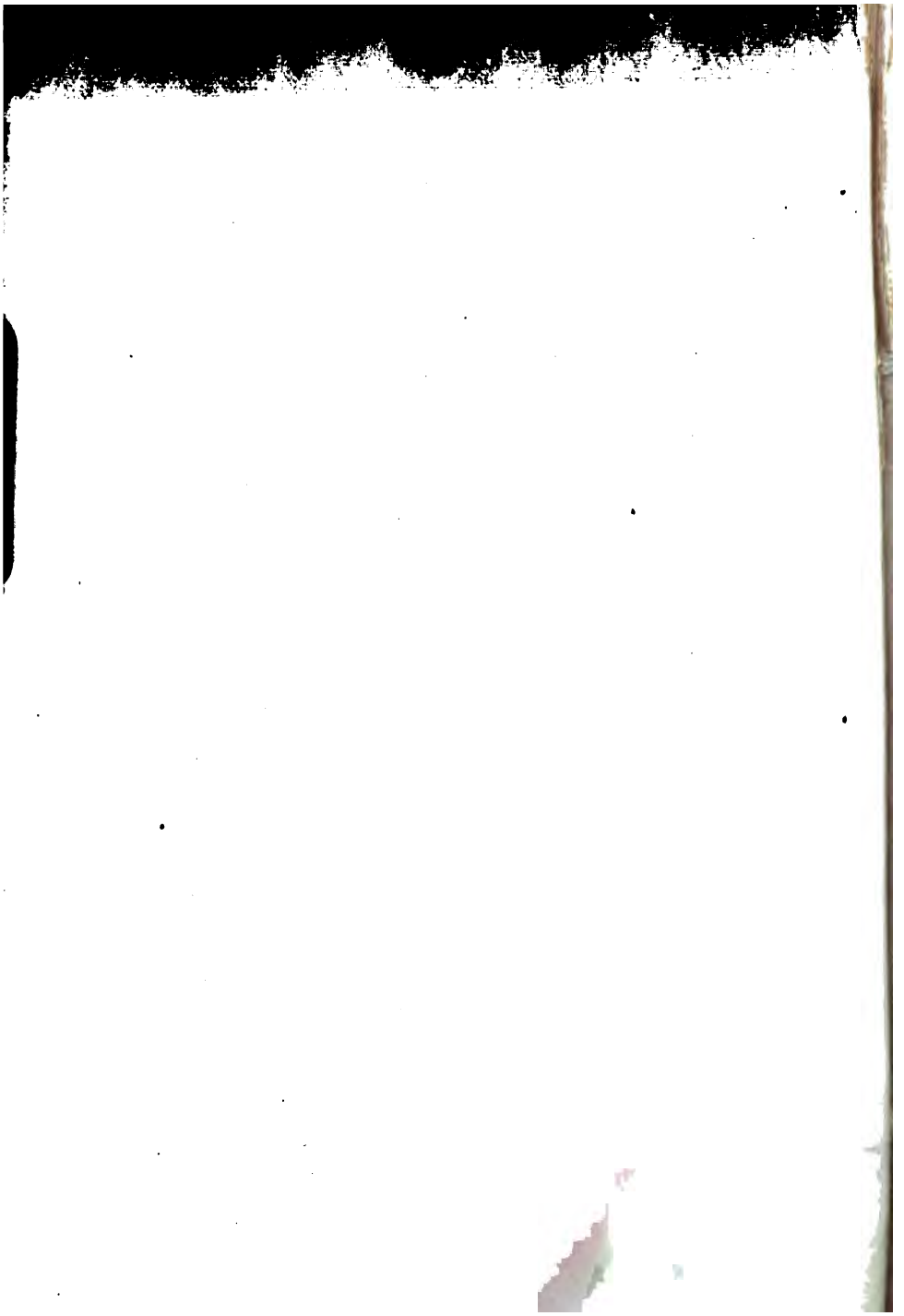

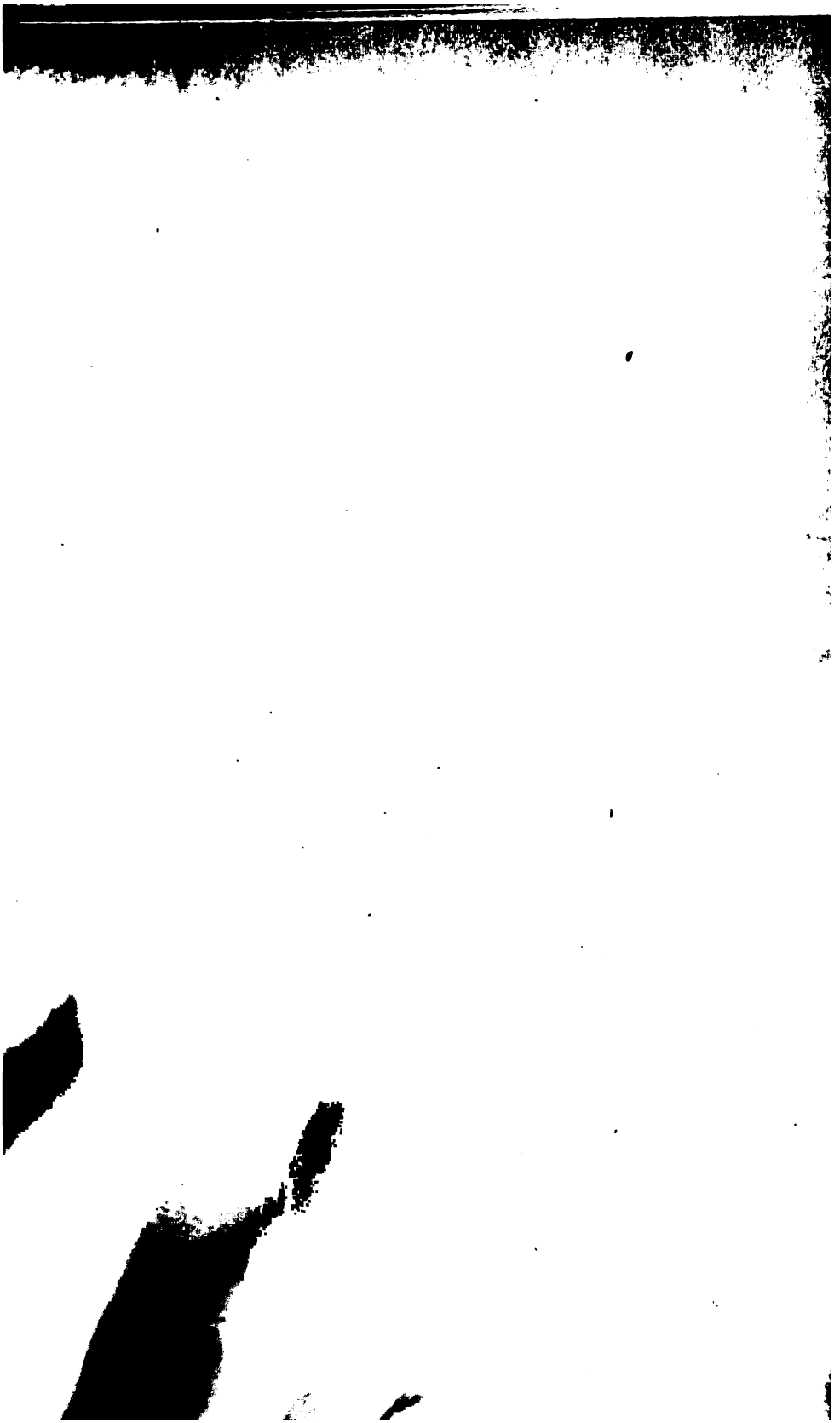

THE

EXECUTIVE DOCUMENTS

OF THE

SENATE OF THE UNITED STATES

FOR THE

SECOND SESSION OF THE FIFTY-THIRD CONGRESS.

1893-94.

Volume 1.—Nos. 1 to 74, inclusive, except No. 19, parts 1 and 2, and No. 36.
Volume 2.—No. 19, parts 1 and 2, Coast and Geodetic Survey.
Volume 3.—No. 36, Proceedings of the Pan-American Medical Congress.
Volume 4.—Nos. 75 to 176, inclusive, except Nos. 97 and 119.
Volume 5.—No. 97, Des Moines River Land Grant.
Volume 6.—No. 119, Reports relating to Military Engineering.
Volume 7.—No. 177, Fur Seal Fisheries Arbitration.

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PROCEEDINGS

OF THE

TRIBUNAL OF ARBITRATION,

CONVENED AT PARIS

UNDER THE

TREATY BETWEEN THE UNITED STATES OF AMERICA AND GREAT BRITAIN CONCLUDED AT WASHINGTON FEBRUARY 29, 1892,

FOR THE

DETERMINATION OF QUESTIONS BETWEEN THE TWO GOVERNMENTS CONCERNING THE JURISDICTIONAL RIGHTS OF THE UNITED STATES

IN THE

WATERS OF BERING SEA.

VOLUME V.

WASHINGTON:
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1895.

BEHRING SEA ARBITRATION.

APPENDIX

TO

CASE OF HER MAJESTY'S GOVERNMENT.

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UNITED STATES. No. 2 (1890).

CORRESPONDENCE

RESPECTING THE

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1886-90.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HER MAJESTY, AUGUST, 1890.

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CORRESPONDENCE RESPECTING THE BEHRING SEA SEAL FISHERIES: 1886-90.

No. 1.

Colonial Office to Foreign Office.—(Received September 1.)

DOWNING STREET, *September 1, 1886.*

SIR: I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Earl of Iddesleigh, a copy of a letter from the Admiralty, with its inclosure, respecting the alleged seizure of three British Columbian seal schooners by the United States Revenue cruizer "Corwin."

I am to suggest, for the consideration of Lord Iddesleigh, that the matter should be brought before the United States Government, with the view of obtaining further information on the subject.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure 1 in No. 1.]

Admiralty to Colonial Office.

ADMIRALTY, *August 26, 1886.*

SIR: I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the perusal of the Secretary of State, a telegram which has been received from the Commander-in-chief on the Pacific Station, dated at Victoria, 24th instant, respecting the seizure of three British Columbian seal schooners by the United States Revenue cruizer "Corwin."

I am, &c.

(Signed) R. D. AWDRY.

[Inclosure 2 in No. 1.—Telegraphic.]

Rear-Admiral Sir M. Culme-Seymour to Admiralty.

VICTORIA, *August 24, 1886.*

Three British Columbian seal schooners seized [by] United States Revenue cruizer "Corwin," Behring's Straits, seaward 70 miles from off the land [? in the execution of] killing female seals, and using fire-arms to do it, which they have done for three years without interference, although in company with "Corwin."

No. 2.

The Earl of Iddesleigh to Sir L. West.

FOREIGN OFFICE, *September 9, 1886.*

SIR: I transmit to you herewith a copy of a letter from the Colonial Office, and of its inclosure, respecting the alleged seizure of three British Columbian seal schooners by the United States Revenue cruizer "Corwin;"* and I have to instruct you to address a communication to the United States Government asking to be furnished with any particulars which they may possess relative to this occurrence.

I am, &c.

(Signed) IDDESLEIGH.

No. 3.

Colonial Office to Foreign Office.—(Received September 27.)

DOWNING STREET, *September 25, 1886.*

SIR: With reference to the capture of Canadian sealing schooners in Behring's Sea by the United States Revenue cruizer "Corwin," I am directed by Mr. Secretary Stanhope to transmit to you, to be laid before the Earl of Iddesleigh, a telegram from the Officer administering the Government of the Dominion, together with a copy of a letter from the Admiralty, with its inclosures, on the subject.

I am to state that, in Mr. Stanhope's opinion, the case is one in which a protest should be made to the United States Government, accompanied by a demand for compensation, and that Sir L. West might be instructed to make such protest and demand, if, upon inquiry, he ascertains that the United States Government maintain the pretension raised by the seizure of these vessels on the high seas.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 3.—Telegraphic.]

Administrator Lord A. E. Russell to Mr. Stanhope.

SEPTEMBER 22, 1886.

The Canadian schooners "Thornton," "Onward" and "Carolina" were seized on the 1st August in Behring's Sea by the United States cutter "Corwin." The captain and mate of the "Thornton" were tried in the District Court of the United States at Sitka on the 30th August. It was attempted to show that the "Thornton" was seized for killing seal about 70 miles south-south-east of St. George's Island, within that portion of Behring's Sea ceded by Russia to the United States.

The Judge, in charging the jury, quoted Article I of the Treaty of the 30th March, 1867, between the United States and Russia, and affirmed that all waters within the boundary set forth in the Treaty to the western end of the Aleutian Archipelago and Islands were to be deemed American, and that the penalties of the Law against the killing of fur-bearing animals were to attach to its violation within the limits in question. The jury were told, if they believed the evidence as to the killing of any fur-bearing animals by the accused on the Alaskan coast or in Behring's Sea, east of the 193rd degree of west longitude, to find them guilty.

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* No. 1.

The prisoners were found guilty. The master of the "Thornton" was fined 500 dollars and sentenced to imprisonment for thirty days. The mate was fined 300 dollars and sentenced to thirty days' imprisonment. The officers of the other two vessels were also tried, and similar penalties imposed upon them.

The Government of Canada protests against the claim of the United States to the sole sovereignty over Behring's Sea, 700 miles east of the westerly boundary of Alaska, defined by the above-mentioned Article I of the Treaty of the 30th March, 1867, as contrary to the admitted principles of international law, and also in opposition to the United States' contention concerning common waters on the coast of the Atlantic.

It protests also against the unwarranted and arbitrary interference of the authorities of the United States with the peaceable and lawful occupation on the high seas of Canadian citizens, as well as against the forfeiture of their property and the indignity of imprisonment which have been imposed upon them. The foregoing facts have also been communicated to Sir Lionel West.

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3 [Inclosure 2 in No. 3.]

Admiralty to Colonial Office.

ADMIRALTY, *September 20, 1886.*

SIR: I am commanded by my Lords Commissioners of the Admiralty to transmit to you, in original, for the perusal of the Secretary of State for the Colonies, a letter from the Commander-in-chief on the Pacific Station, dated the 25th August, respecting the seizure of three sealing schooners by the United States Revenue cruizer "Corwin," on the plea of their killing female seals.

I am to request that these papers may be sent to the Foreign Office, to be returned to this Department when done with.

I am, &c.

(Signed) EVAN MACGREGOR.

[Inclosure 3 in No. 3.]

Rear-Admiral Sir M. Culme-Seymour to Admiralty.

"TRIUMPH," AT ESQUIMALT, *August 25, 1886.*

SIR: In confirmation of my telegram of the 23rd instant, I have the honour to inform you of the particulars, as far as I can at present ascertain them, of the seizure of the three sealing schooners by the United States Revenue cruizer "Corwin," a small screw steamer.

The schooners are:

"Thornton," auxiliary screw, 22 tons, Captain J. D. Warren, owner.

"Carolina," sailing, 32 tons, William Munsie, owner.

"Onward," sailing, 35 tons, W. Spring, owner.

All belonging to Victoria, British Columbia.

The schooner which was seized nearest to land was 50 miles from St. George Island, the other two rather further off. All three were towed by the "Corwin" to Ounalaska, the captain and one man retained on board, and the remainder of the crew sent to San Francisco by a steamer going there, when they were set free, and sent on here at the expense of the owners, arriving on the night of the 22nd instant.

Their arrival at San Francisco was the first we heard of the schooners being seized.

Nothing has been disturbed on board the schooners, except that the arms and ammunition have been seized, and sufficient provision for the crew on their passage to San Francisco taken.

2. There are ten other sealing schooners from Victoria in the Behring's Sea. The season is from about the 1st July to the end of August. If not seized, they are probably on their way here, and may be expected to arrive the middle of September. The question of whether they should be protected or not does not, therefore, at present arise.

Last year there were two schooners from here in the Behring's Sea, and I am assured the "Corwin" spoke them four or five times without interfering.

In 1884 only one schooner was there. The success of these has caused thirteen to be fitted out this season.

3. I inclose copies of the following as bearing on the subject:

(1.) *Letter from captain of "Thornton" to owner.*

(2.) *Letter from captain of "Carolina" to owner.*

(3.) Letter from Mr. Boutwell, Secretary United States Treasury.
(4.) A warning published in San Francisco papers and copied into British Columbian papers.
(5.) Letter and telegrams between Mr. Lubbe and Mr. Crow-Baker, M. P. for Victoria.
(6.) A letter from the American newspaper "Oregonian." *

I had hoped to have inclosed a copy of the lease from the United States to the Alaska Commercial Company, and a copy of the depositions of the crews on arrival at Victoria, but the only copy of the lease in Victoria, as also the depositions, have been taken away by the Honourable G. E. Foster, Canadian Minister of Marine and Fisheries, who was here on the 23rd, and left yesterday morning. I have telegraphed to him for copies, and will forward them as soon as received.

4 4. I would call attention to the Treaty concerning the cession of the Russian possessions in North America to the United States, concluded 30th March, 1867, as also to the Convention between Great Britain and Russia, signed 16th (28th) February, 1825, and beg to make the following observations:

An American Company, called the "Alaska Commercial Company," have a lease from the United States, dated 1870, of the Islands of St. Paul and St. George for twenty years, with the right to kill 100,000 seals annually on the islands and "waters adjacent." A United States officer is stationed on these islands to see the terms of the lease properly carried out, and the "Corwin" is also there for this purpose. By the terms of the lease, fire-arms are not to be used to kill the seals, nor may female seals or seals under one year old be killed.

5. It would appear by Inclosure No. 4† that the United States claim the whole of the Behring's Sea, bounded on the south by the Aleutian Islands, and, as laid down in the Treaty of 1867, as American territory. It would seem impossible to sustain this, for it would appear to be the "high sea," and not Russia's to cede, and this line mentioned in the Treaty only meant to include the islands within it, and not the sea.

I beg to draw special attention to the letter from Mr. Boutwell in 1872 (Inclosure No. 3).‡ Mr. Boutwell was then the United States Secretary to the Treasury, and he distinctly states his Government could not interfere beyond a marine league from the shore. Mr. Boutwell was, I am told, greatly instrumental in procuring the lease of St. Paul and St. George for the Alaska Commercial Company, and was therefore interested in excluding sealing vessels from the Behring's Sea.

6. I may mention that female seals cannot be distinguished from males when killed asleep on the water at sea; the seals killed by the Alaska Commercial Company are all clubbed on land, when the difference of sex can be easily seen; but that does not really affect the question as I view it, which is simply whether the Behring's Sea is the "high sea," or not. If, as I take it, Behring's Sea is the "high sea," I presume no vessel fishing there can be legally interfered with.

7. The "San Diego" referred to in Inclosures 1 and 2§ is an American schooner, and was taken and confiscated, I am informed, for landing and killing 500 seals on land, contrary to United States law.

8. Inclosure 5, ‖ from a gentlemen in Victoria interested in sealing, and the telegraphic answers, show that the owners of the schooners sent them up with their eyes open, and were aware they ran a risk of being seized.

9. Inclosure 6 ¶ is a letter in an American newspaper, the "Oregonian," published at Portland, Oregon, and shows the view taken by many Americans on the subject.

I have, &c.

(Signed) M. CULME-SEYMOUR.

P. S. *Port Moody, August 27, 1886.*—The depositions alluded to having just arrived, I inclose them.

M. C-S.

[Inclosure 4 in No. 3.]

Captain H. Guttermann [?] to Captain J. D. Warren.

SCHOONER "THORNTON," IN PORT ILIOLUK, OUNALASKA,
August 7, 1886.

SIR: As this is my first opportunity to let you know that on the 1st August at 6 P. M.—my position 55° 45′ north latitude, 168° 44′ west longitude—having on board 403 seal-skins, all well on board, when United States Revenue cutter "Corwin" placed an officer on board, took arms and ammunition, took us in tow. At 8 P. M. stopped and took schooner "Carolina" in tow.

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* Not printed.
† *See* Inclosure 7 in No. 3.
‡ *See Inclosure 6 in No. 3.*
§ See Inclosures 4 and 5 in No. 3.
‖ See Inclosure 8 in No. 3.
¶ See Inclosure 9 in No. 3.

August 2 at 6 A. M. stopped and took schooner "Onward." At noon latitude 54° 30′, longitude 167° 18′. At 8.40 P. M. brought us to anchor in above-mentioned port; took all the boats from the schooner; put a watchman on board from the cutter.

August 3. At 9 A. M. an officer from the cutter came on board and took the ship's papers.

August 4. An officer from the cutter returned one boat, and gave four of the crew liberty to go on shore from 8 A. M. to 8 P. M., at the discretion of me.

August 5. Nothing done to remark.

August 6. Ditto.

August 7. At 9 A. M. an officer from the cutter came on board; took some provisions from the schooner. At 3 P. M. took ten men, and are going to be sent to San Francisco immediately with steamer "San Paule," as leaves just now.

"San Diego" is seized and stripped here.

I have put in my protest.

My latest news from the rest of Victoria schooners is "doing well." I know not more just now, and remain, yours, &c.

(Signed) H. GUTTERMANN [?].

My protest is as follows:

"I, H. Gutterman [?], master of British schooner 'Thornton,' do hereby declare that I do not know wherein I have violated the laws of the United States or other nations in taking seals beyond the usual limit of 3 leagues [? miles] from shore within Behring's Sea, and I therefore enter this my solemn protest against the action of the United States authorities in seizing this the vessel under my command, together with the seal-skins composing cargo."

(Excuse haste.) H. G.

[Inclosure 5 in No. 3.]

Captain J. Ogilvie to Mr. W. Munsie.

OUNALASKA, *August 6, 1886.*

DEAR SIR: The United States steamer "Corwin" boarded and took charge of the schooner in latitude 55° 50′ north, longitude 168° 53′ west. They took all the fire-arms from the schooner. I asked why they did so. They said for killing female seals and carrying fire-arms. They towed the "Thornton" and "Onward" in at the same time. I have got 686 seal-skins on board, "Thornton" 404, "Onward" 700. I have heard nothing of the "Pathfinder" in the Behring's Sea; she was seen off Sitka coming up. It was on the 1st August, at 6 P. M., they took charge of the schooner.

The American schooner "San Diego" is in here, they are taking all her skins and sails on shore; 500 skins.

Your, &c.

(Signed) JAMES OGILVIE.

[Inclosure 6 in No. 3.]

Mr. Boutwell to Mr. Phelps.

TREASURY DEPARTMENT, *Washington, April 19, 1872.*

SIR: Your letter of the 25th ultimo was duly received, calling the attention of the Department to certain rumors circulating in San Francisco to the effect that expeditions are to start from Australia and the Hawaiian Islands to take fur-seals on their annual migration to the Islands of St. Paul and St. George, through the narrow pass of Unmark. You recommend, to cut off the responsibility of evil resulting to the interest of the United States from these expeditions, that a Revenue cutter be sent to the region of Unmark Pass, by the 16th May next. A very full conversation was had with Captain Bayant upon this subject while he was at the Department, and he convinced it to be entirely impracticable to make such an expedition a paying one, inasmuch as the seals go singly or in pairs, and not in droves, and cover a large region of water in their homeward travel to these islands, and he did not seem to fear that the seals would be driven from their accustomed resorts, even were such attempts made.

In addition, I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempt within a marine league of the shore

As at present advised, I do not think it expedient to carry out your suggestion, but I will thank you to communicate to the Department any further facts or information you may be able to gather upon the subject.

I am, &c.

(Signed) GEO. S. BOUTWELL, Secretary.

6 [Inclosure 7 in No. 3.]

Extract from the "Daily British Colonist" of April 6, 1886.

ALASKA SEAL CATCHING.—The story goes that some poachers were fitting out in San Francisco to kill seals on the Federal preserves in Alaskan waters. To warn all such parties Secretary Manning addressed the following note to Collector Hager:

"TREASURY DEPARTMENT, *March 16, 1886.*

"SIR: I transmit herewith, for your information, a copy of a letter addressed by the Department on the 12th March, 1881, to D. A. D'Ancona, concerning the jurisdiction of the United States in the waters of the Territory of Alaska, and the prevention of the killing of fur-seals and other fur-bearing animals within such areas, as prescribed by Chapter 5, Title 23, of the Revised Statutes. The attention of your predecessor in office was called to this subject on the 4th April, 1881. This communication is addressed to you, inasmuch as it is understood that certain parties at your port contemplate the fitting out of expeditions to kill fur-seals in these waters. You are requested to give due publicity to such letters, in order that such parties may be informed of the construction placed by this Department upon the provision of law referred to.

"Respectfully yours,

(Signed) "D. MANNING, *Secretary.*

"COLLECTOR OF CUSTOMS, *San Francisco.*"

Upon reference to back files we find the full explanation of this note in the letter referred to, which is as follows:

"TREASURY DEPARTMENT, *March 12, 1881.*

"SIR: Your letter of the 19th ultimo, requesting certain information in regard to the meaning placed by this Department upon the Law regulating the killing of fur-bearing animals in the Territory of Alaska, was duly received.

"The Law prohibits the killing of any fur-bearing animals, except as otherwise therein provided, within the limits of Alaska Territory, or in the waters thereof, and also prohibits the killing of any fur-seals on the Islands of St. Paul and St. George, or in the waters adjacent thereto, except during certain months.

"You inquire in regard to the interpretation of the terms 'waters there' and 'waters adjacent thereto,' as used in the Law, and how far the jurisdiction of the United States is to be understood as extending.

"Presuming your inquiry to relate more especially to the waters of Western Alaska, you are informed that the Treaty with Russia of the 30th March, 1870,* by which the Territory of Alaska was ceded to the United States, defines the boundary of the territory so ceded. This Treaty is found on pp. 671 to 673 of the volume of Treaties of the Revised Statutes. It will be seen, therefore, that the limit of the cession extends from a line starting from the Arctic Ocean, and running through Behring's Strait to the north of St. Lawrence Islands.

"The line runs thence in a south-westerly direction, so as to pass midway between the Island of Attou and Copper Island of the Kormansborski Couplet or Group of the North Pacific Ocean, to meridian of 173° west longitude. All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands are considered as comprised within the waters of Alaska Territory.

"All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits before described.

"Very respectfully,

(Signed) "H. F. FRENCH, *Acting Secretary.*

"D. A. D'ANCONA,
717, O'Farrell Street, San Francisco, California."

All parties are warned that the rule laid down by the Secretary of the Treasury of the United States in 1881, and reaffirmed in the note of Secretary Manning to the Collector of this port of date of the 16th March, 1886, will be rigidly enforced against all who attempt to poach upon the Federal preserve by killing seals within its limits, there laid down and defined, in the waters of Alaska. From that preserve the Federal Government derives revenue, and its lessee is entitled to the protection proffered by the note of the Secretary referred to.

* † 1867.

[Inclosure 8 in No. 3.]

Mr. F. Lubbe to Mr. E. Crow-Baker, M. P.

VICTORIA, BRITISH COLUMBIA, *March 30, 1886.*

DEAR SIR: The inclosed clipping explains itself.

The question I wish to ask you is, Can the United States claim the easterly half of Behring's Sea as American waters?

The British schooners "Mary Ellen," "Favourite," "Onward," "Grace," "Dolphin," "Anna Beck," "Wm. P. Sayward," "Mary Taylor," "Carolina," "Alfred Adams," and "Active" intend to follow the seals into Behring's Sea at the end of the seal-fishing season off the British Columbia coast, say the 20th May next. These schooners would spear and shoot seals upon the high seas, and have no occasion to go within 30 miles of any land. You are aware that the British schooner "Mary Ellen" has already made two successful voyages to the Behring's Sea; the "Favourite" made also a successful voyage during 1885. Both these vessels were spoken by an American Revenue cruizer in Behring's Sea last summer, but not in any way molested.

Would it not be well for you to obtain from the Minister of Marine in Ottawa a written opinion, and, further, would you be good enough to communicate to me the substance of such opinion by wire?

Please act promptly, and oblige yours, &c.

(Signed) F. LUBBE.

Warning to Seal Hunters.

The Treasury Department, having become informed that certain parties are fitting out expeditions for the purpose of killing fur-seals and other fur-bearing animals in Alaska waters, gives the following information to parties concerned, as to how far the jurisdiction of the United States extends in the matter.

The Treaty with Russia of the 30th March, 1870, by which the Territory of Alaska was ceded to the United States, defines the boundary of the territory so ceded. It will be seen therefrom that the limit of the cession extends from a line starting from the Arctic Ocean and running through Behring's Straits to the north of St. Lawrence Islands. The line runs thence in a south-westerly direction, so as to pass midway between the Island of Attou and Cooper Island, of the Kromanboski couplet or group, in the North Pacific Ocean, to meridian 173° west longitude. All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands are considered as comprised within the waters of Alaska Territory.

All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits described.

Mr. A. Crow-Baker to Mr. F. Lubbe.

[Telegraphic.]

APRIL 20.

Your matter progressing expeditiously as possible. Referred by Council to Minister Justice. Will advise you when decision is reached.

Mr. E. C. Rowbotham to Mr. F. Lubbe.

[Telegraphic.]

MAY 30.

Minister Justice gives opinion in your favor and against American contention. He has recommended attention of Imperial Government being called to the subject in order that views of Canadian Government be then sustained and enforced.

[Inclosure 9 in No. 3.]

Declarations.

I, William Munsie, of Victoria, grocer, do solemnly and sincerely declare that I am sole owner of the schooner "Carolina," and she has a Canadian register, having been registered at the port of Victoria. The vessel and her outfit at the time she left

8 for Behring's Sea was 7,000 dollars, and I make this solemn declaration, conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled "An Act for the Suppression of Voluntary and Extra-judicial Oaths."

(Signed) WM. MUNSIE.

Taken and declared before me at Victoria, this 23rd August, 1886.
(Signed) M. W. TYRWHITT DRAKE, *J. P.*

I, Thomas McLaedy, of Victoria, British Columbia, cook, do solemnly and sincerely declare that I was engaged as cook on board the British schooner "Carolina," and I was on board when the United States steamer "Corwin" seized her. During the whole time the said schooner was sealing she never sighted land once. After she was seized the "Corwin" took her in tow about 6 o'clock in the evening, and about 8 o'clock in the morning the English schooner "Onward," of the tonnage of 35.20 tons, was also seized and taken in tow to Ounalaska. Her crew were left on board and not removed to San Francisco; she had seal-skins on board. And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled "An Act for the Suppression of Voluntary and Extra-judicial Oaths."

(Signed) T. MCLAEDY.

Taken and declared before me this 23rd August, 1886, at Victoria, British Columbia.
(Signed) M. W. TYRWHITT DRAKE, *J. P.*

I, Edward Shields, of Sooke District, Vancouver Island, a hunter, engaged on board the British schooner "Carolina," of 31.90 registered tonnage, do solemnly and sincerely declare that I left Victoria on board the aforesaid schooner on the 20th May, 1886, bound on a voyage to Behring's Sea for the purpose of sealing. The schooner was fitted out for this purpose. She had eleven hands on board, including the master, by name James Ogilvie. We sailed to Behring's Sea and commenced sealing on the 15th June, and at that time we were about 380 miles from land, and we continued cruizing about for seals, and up to the time the United States vessel "Corwin" seized us we had 686 seals. During the whole time we were cruizing about we were in the open sea, out of sight of any land. The seals we obtained were chiefly females. At the time the "Corwin" seized us on the 1st August we were out of sight of land and in latitude 55° 50′ north, longitude 168° 53′ west, as I was informed and verily believe. There were other vessels, both American and English, cruizing about in the same neighbourhood. We never killed a seal in the neighbourhood of the Aleutian Islands. I was away in the boats when the "Corwin" seized the vessel, and when I came back I found the "Carolina" in tow of the "Corwin." The captain of the "Corwin," Abbey by name, took away all the fire-arms, consisting of rifles and shot-guns, ten in all, and I was taken to Ounalaska, and from there I was taken to San Francisco by the steamer "St. Paul," and there turned adrift. The "Carolina" was left at Ounalaska with the seals and outfit, and I make this solemn declaration, conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled "An Act for the Suppression of Voluntary and Extra-judicial Oaths."

(Signed) EDWARD SHIELDS.

Taken and declared before me at Victoria, this 23rd day of August, 1886, in due form of law.

(Signed) M. W. TYRWHITT DRAKE, *J. P.*

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9 I, John Dallas, of Victoria, British Columbia, seaman, do solemnly and sincerely declare that I was engaged about the end of May 1886 as a seaman on board the schooner "Thornton," of 22.30 registered tonnage, registered in the Dominion of Canada as a British vessel. I was engaged sealing on the west coast of Vancouver Island, and when the seals got scarce the "Thornton" left [? Clayoquot] Vancouver Island, for Behring's Sea about beginning of June, and three days after passing Unmark Pass we killed our first seal, being then about 250 miles from land. We were engaged sealing in the open sea until the 1st August. We had a little over 400 skins on board, when the United States steamer "Corwin" seized our

vessel and took her to Ounalaska. They were about twenty-eight hours engaged in towing us to Ounalaska. The master of the "Corwin" removed all our guns and ammunition—ten guns in all. There were fourteen hands on board the "Thornton" altogether, including two Indians, nine white men, and a Chinese cook—were sent to San Francisco and there discharged. Two white men and two Indians were left on board the schooner at Ounalaska. We were 5 or 6 miles from the "Carolina" at the time we were seized. I saw no other vessels in sight at the time. We were never in sight of land during the whole time we were sealing. And I make this declaration, conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled "An Act for the Suppression of Voluntary and Extra-judicial Oaths."

(Signed) JOHN DALLAS, his × mark.

Taken and declared before me at Victoria, this 23rd day of August, 1886, the same having been first read over to him.

(Signed) M. W. TYRWHITT DRAKE, *J. P.*

No. 4.

Sir L. West to the Earl of Iddesleigh.—(Received October 4.)

WASHINGTON, *September 21, 1886.*

MY LORD: The reported seizure of British vessels by American cruizers in waters over which it appears the United States Government claim jurisdiction as adjacent to the Territory of Alaska has given rise to much comment in the newspapers touching the interests of a powerful commercial Company which may be affected by the international questions arising therefrom; and in this connection I have the honour to inclose to your Lordship herewith a précis of the history of the origin of this Company, as well as of what has been written on the subject.

Chapter 3 of the Revised Statutes of the United States (p. 342, sections 1954 to 1976 inclusive) contains the "provisions relating to the unorganized Territory of Alaska;" and section 1954 extends "the laws of the United States to and over all the mainland, islands, and waters of the territory" ceded by Russia to the United States by the Treaty of 1867.

In addition the lease of the Government Seal Islands the Alaska Company holds as well leases of certain islands from the Russian Government, so that in fact it may be said to monopolize the seal fur trade in these waters.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 4.]

History of the Origin of the Alaska Commercial Company.

The transfer of the Territory of Alaska to the United States Government, in compliance with the terms of the Treaty of Purchase between the two Governments, included the transfer of all the Russian Government property, such as public buildings at Sitka, Governor's house, Custom-house, hospital, and wharves, &c. There were, however, certain buildings reserved as the property of the Russian Fur Company, and as General Rousseau, the United States Commissioner, could not, in his official capacity, take any active or open part in its disposal, Prince Matsukoff, the Russian Governor, concluded a bargain with Mr. Hutchinson, who accompanied General Rousseau as his Private Secretary. This bargain included all the property of the Russian Fur Company and seal-skins stored. It was made on private terms and to the exclusion of the stockholders of the Russian Company and the American officers stationed at Sitka, who claimed that they were entitled to a share of the spoils.

By virtue of this bargain with Prince Matsukoff, who was Governor of the Company, Mr. Hutchinson proposed to take possession of the fur trade of Alaska and the Seal Islands, and left for Victoria (British Columbia) and San Francisco to make the necessary arrangements. At the former place he met with a Mr. Kohl, owner of a British steamer called the "Fidelitor," with whom he entered into partnership, and the firm still exists under the name of Hutchinson, Cole, and Co. The steamer obtained an American register under the plea that she was a Russian vessel at the time of the transfer of the territory to the United States, and was thus enabled to carry on the coasting trade. Preparations were made in 1868 for working the fur trade of the newly-acquired possession, and especially for the occupation of the Pribylov Islands, to which, by virtue of the arrangements with Prince Matsukoff, the new Company considered they had an exclusive right. Upon their arrival there, however, they found them occupied by experienced sealers from New London and Stonington (Connecticut) under one Captain Morgan. A fight for possession seemed imminent, but a division of the season's catch was finally agreed upon. While the two parties were thus amicably at work, M. Pflugel, Russian Vice-Consul at Honolulu, arrived at the head of an expedition, believing that he should find the islands unoccupied, but was eventually forced to retire before the combined forces of Captain Morgan and Mr. Hutchinson. It now became obvious that the Government must take means to preserve these valuable seal rookeries, and in the winter of 1868 an Act of Congress was passed, the conditions for permission to take seals being, however, reserved for future Congressional action. The coalition between Hutchinson and Morgan still continued, and finally led to the organization of the powerful and wealthy Alaska Commercial Company. Since 1870 this Company has controlled the entire fur trade of Alaska, and by virtue of its alliances with the lessees of the Russian Seal Islands, controls the valuable fur-seal trade of the world. With strong political influence in the Congress of 1876, it obtained a lease of the Pribylov Islands for twenty years at a rental of 55,000 dollars a-year, and a royalty of 2 dol. 62 c. per skin, the take to be limited to 100,000 skins a-year. It is calculated that the Company pays annually 315,000 dollars to the United States Treasury, which, after paying all the expenses of the Territory, yields more than 4 per cent. per annum on the purchase-money paid to Russia for Alaska.

To preserve this revenue through future years the protection of the seals from illegal capture or disturbance on their annual visits to the islands has been deemed an absolute necessity, and hence the prohibition against approaching or landing on the islands and the vigilance of the United States cruizers in the Behring's Sea. It is not, however, generally understood that the Alaska Company controls the fur trade of all the mainland and islands of Alaska lying west of the 141st meridian of west longitude, and that its operations over this vast extent of territory and coast are entirely distinct from, and have no connection with, its exclusive control of the Seal Islands, which it holds by virtue of its lease from the United States Government.

Outside of these islands it holds no exclusive rights or franchise from the Government, nor does it pay any rent or royalty to the Government on the territory it occupies or the furs it procures from the natives. It has no rights over any other citizen or company of citizens who may desire to trade in competition with it, and yet it has been aided by the Revenue Marine in suppressing competition from rival traders, for it appears that, under instructions from the Treasury Department, the Revenue cruizers board and examine every trading-vessel sighted in the Behring's Sea or on the north-west coast of Alaska, except the vessels of the Company. If a pretext can be found, an officer is placed on board with instructions to take the vessel to Ounalaska and discharge her cargo. She is then sent to San Francisco, where the United States Marshal finds that there is no cause for condemnation, and, as the object of breaking up her voyage has been gained, she is released and restored to her owners. The vessels subjected to this treatment come from British Columbia and Japan, and are, it is said, fitted out for contraband trade.

WASHINGTON, *September 1886.*

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11 No. 5.

Sir L. West to the Earl of Iddesleigh.—(Received October 4.)

WASHINGTON, *September 21, 1886.*

MY LORD: With reference to my preceding despatch, I have the honour to inclose to your Lordship herewith copies of correspondence, as published in the newspapers, relative to the seizure of British sealers in Alaska waters.

I have, &c. (Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 5.]

Extract from the "New York Herald" of September 21, 1886.

THE BRITISH SEALERS—OFFICERS OF SOME OF THE TRESPASSING SCHOONERS FINED AND IMPRISONED.

WASHINGTON, *September 20, 1886.*

Acting Secretary Fairchild has received a telegram from Captain Abbey, commanding the Revenue steamer "Corwin," dated at Nanaimo, British Columbia, which is as follows:

"Respectfully report 'Corwin' here at request of Governor Swineford and Judge Dawson. Have brought here twenty-two British seamen, released from seized sealers. Am to land remaining released American seamen at Port Townsend. Masters and mates of the seized craft have been convicted and sentenced to fines or imprisonment, or both. I made full depositions for libel suits before leaving Sitka."

Despatches have been received at the Navy Department from Lieutenant-Commander Nichols, commanding the "Pinta," from Sitka, Alaska, relating to the seizure of the British sealers. In the despatch dated the 28th of August he says:

"On the 24th instant the Revenue steamer 'Corwin' came in, bringing the American vessel 'San Diego,' of San Francisco, seized for catching seals unlawfully. She also reported the seizure of three English schooners for the same offence. The latter were left at Ounalaska in charge of the United States Deputy Marshal, the officers, crews, and cargoes being brought here. A large quantity of arms and ammunition was also seized. The matter comes up before the District Court here next week, and it is probable that interesting international questions will come up, as well also as the jurisdiction of the United States over the entire seas in the Arctic and Behring's Seas east of the boundary line."

In a despatch dated the 2nd September he says that two of the cases have been disposed of as follows:

"The captain and mate of the British schooner 'Thornton' were tried by jury, found guilty, and sentenced each to imprisonment for thirty days and fined, the captain 500 dollars and the mate 300 dollars. The captain and mate of the American schooner 'San Diego' waived a jury, and were tried before the Court. Both were found guilty and sentenced, the captain to two months' imprisonment, and the mate to one month's imprisonment.

"The cases of the two other British schooners will come up in a day or two. The captain of one of them has disappeared, and, it is supposed, has committed suicide."

From an inclosure in one of these despatches it is learned that the "Corwin," when conveying her prizes to port, sighted five other vessels, all doubtless engaged in unlawful sealing. They made sail with all possible haste as soon as the Revenue vessel was sighted, and the latter was unable to follow them without abandoning her prizes.

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12 No. 6.

Admiralty to Foreign Office.—(Received October 11.)

ADMIRALTY, *October 7, 1886.*

SIR: With reference to my letters of the 26th August and the 20th September,* relative to the seizure of British Columbian sealing schooners, I am commanded by my Lords Commissioners of the Admiralty to transmit to you, for the perusal of the Secretary of State for Foreign Affairs, copy of an Act to prevent the extermination of fur-bearing animals in Alaska, together with copy of the lease of the United States to the Alaska Commercial Company to take fur-seals in the Territory of Alaska. A similar letter has been sent to the Colonial Office.

I am, &c.

(Signed) EVAN MACGREGOR.

* See Inclosure 1 in *No. 1, and Inclosure 2* in No. 3.

[Inclosure 1 in No. 6.]

[PUBLIC—No. 120.]

An Act to prevent the Extermination of Fur-bearing Animals in Alaska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that it shall be unlawful to kill any fur-seal upon the Islands of St. Paul and St. George, or in the waters adjacent thereto, except during the months of June, July, September, and October in each year, and it shall be unlawful to kill such seals at any time by the use of fire-arms, or use other means tending to drive the seals away from said islands.

Provided that the natives of said islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing and for the manufacture of boats for their own use, which killing shall be limited and controlled by such Regulations as shall be prescribed by the Secretary of the Treasury.

Section 2. And be it further enacted, that it shall be unlawful to kill any female seal, or any seal less than one year old at any season of the year except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to the said islands, or on the beaches, cliffs, or rocks where they haul up from the sea to remain; and any person who shall violate either of the provisions of this or the first section of this Act shall be punished on conviction thereof for each offence by a fine of not less than 200 dollars, nor more than 1,000 dollars, or by imprisonment not exceeding six months, or by such fine and imprisonment both at the discretion of the Court having jurisdiction, by taking cognizance of the offence; and all vessels, their tackle, apparel, and furniture, whose crew shall be found engaged in the violation of any of the provisions of this Act, shall be forfeited to the United States.

Sec. 3. And be it further enacted, that for the period of twenty years from and after the passage of this Act the number of fur-seals which may be killed for their skins upon the Island of St. Paul is hereby limited and restricted to 75,000 per annum; and the number of fur-seals which may be killed for their skins upon the Island of St. George is hereby limited and restricted to 25,000 per annum. Provided that the Secretary of the Treasury may restrict and limit the right of killing if it shall become necessary for the preservation of such seals, with such proportionate reduction of the rents reserved to the Government as shall be right and proper, and if any person shall knowingly violate either of the provisions of this section, he shall, upon due conviction thereof, be punished in the same way as provided herein for a violation of the provisions of the first and second sections of this Act.

Sec. 4. And be it further enacted, that immediately upon the passage of this Act the Secretary of the Treasury shall lease, for the rental mentioned in section 6 of this Act, to proper and responsible parties, to the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, the parties heretofore engaged in trade, and the protection of the seal fisheries,
13 for a term of twenty years from the 1st day of May, 1870, the right to engage in the business of taking fur-seals on the Islands of St. Paul and St. George, and to send a vessel or vessels to said islands for the skins of such seals, giving to the lessee or lessees of said islands a lease, duly executed, in duplicate, not transferable, and taking from the lessee or lessees of said islands a bond, with sufficient sureties, in a sum not less than 500,000 dollars, conditioned for the faithful observance of all the laws and requirements of Congress, and of the Regulations of the Secretary of the Treasury touching the subject-matter of taking fur-seals and disposing of the same, and for the payment of all taxes and dues accruing to the United States connected therewith; and in making said lease the Secretary of the Treasury shall have due regard to the preservation of the seal-fur trade of said islands, and the comfort, maintenance, and education of the natives thereof. The said lessees shall furnish to the several masters of vessels employed by them certified copies of the lease held by them respectively, which shall be presented to the Government Revenue officer for the time being who may be in charge at the said islands as the authority of the party for landing and taking skins.

Sec. 5. And be it further enacted, that at the expiration of said term of twenty years, or on surrender or forfeiture of any lease, other leases may be made in manner aforesaid for other terms of twenty years; but no person other than American citizens shall be permitted by lease or otherwise to occupy said islands or either of them, for the purpose of taking the skins of fur-seals therefrom, nor shall any foreign vessel be engaged in taking such skins, and the Secretary of the Treasury shall vacate and declare any lease forfeited if the same be held or operated for the use, benefit, or advantage, directly or indirectly, of any person or persons other than American citizens. Every lease shall contain a covenant on the part of the lessee that he will not keep, sell, furnish, give, or dispose of any distilled spirits or spirituous liquors on either of the said islands to any of the natives thereof, such person not being a

physician and furnishing the same for use as medicine: and any person who shall kill any fur-seal on either of the said islands, or in the waters adjacent thereto, without authority of the lessees thereof, and any person who shall molest, disturb, or interfere with said lessees, or either of them, or their agents or employés, in the lawful prosecution of their business, under the provisions of this Act shall be deemed guilty of a misdemeanour, and shall for each offence, on conviction thereof, be punished in the same way and by like penalties as prescribed in the 2nd section of this Act; and all vessels, their tackle, apparel, appurtenances, and cargo, whose crews shall be found engaged in any violation of either of the provisions of this section, shall be forfeited to the United States; and if any person or Company, under any lease herein authorized, shall knowingly kill, or permit to be killed, any number of seals exceeding the number for each island in this Act prescribed, such person or Company shall, in addition to the penalties and forfeitures aforesaid, also forfeit the whole number of the skins of seals killed in that year, or, in case the same have been disposed of, then said parties or Company shall forfeit the value of the same; and it shall be the duty of any Revenue officer, officially acting as such on either of said islands, to seize and destroy any distilled spirits or spirituous liquors found thereon, provided that such officer shall make detailed report of his doing so to the Collector of the port.

Sec. 6. And be it further enacted, that the annual rental to be reserved by said lease shall not be less than 50,000 dollars per annum, to be secured by deposit of United States bonds to that amount, and in addition thereto a revenue tax as duty of 2 dollars is hereby laid upon each fur-seal skin taken and shipped from said islands during the continuance of such lease to be paid into the Treasury of the United States; and the Secretary of the Treasury is hereby empowered and authorized to make all needful Rules and Regulations for the collection and payment of the same, for the comfort, maintenance, education, and protection of the natives of said islands, and also for carrying into full effect all the provisions of this Act. Provided, further, that the Secretary of the Treasury may terminate any lease given to any person, Company, or Corporation on full and satisfactory proof of the violation of any of the provisions of this Act, or the Rules and Regulations established by him. Provided, further, that the Secretary of the Treasury is hereby authorized to deliver to the owners the fur-seal skins now stored on the islands, on the payment of 1 dollar for each of said skins taken and shipped away by said owners.

Sec. 7. And be it further enacted, that the provisions of the 7th and 8th sections of "An Act to extend the Laws of the United States relating to Customs, Commerce, and Navigation over the Territory ceded to the United States by Russia, to establish a Collection District thereon, and for other purposes," approved 27th July, 1868, shall be deemed to apply to this Act, and all prosecutions for offences committed against the provisions of this Act, and all other proceedings had because of the violations of the provisions of this Act, and which are authorized by said Act above mentioned, shall be in accordance with the provisions thereof, and all Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Sec. 8. And be it further enacted, that the Congress may at any time hereafter alter, amend, or repeal this Act.

Approved 1st July, 1870.

[Inclosure 2 in No. 6.]

Mr. Boutwell to Mr. Phelps, April 19, 1872.

(See inclosure 6 in No. 3.)

[Inclosure 3 in No. 6.]

Lease of the United States to the Alaska Commercial Company to take Fur Seals in the Territory of Alaska.

This indenture, in duplicate, made this 3rd day of August A. D. 1870, by and between William A. Richardson, Acting Secretary of the Treasury, in pursuance of an Act of Congress, approved the 1st July, 1870, entitled "An Act to prevent the Extermination of Fur-bearing Animals in Alaska," and the Alaska Commercial Company, a Corporation duly established under the laws of the State of California, acting by John F. Miller, its President and Agent, in accordance with a Resolution of said Corporation duly adopted at a meeting of its Board of Trustees, held the 31st January, 1870,

Witnesseth—

That the said Secretary hereby *leases to the said Alaska* Commercial Company, without power *of transfer, for the term of twenty years* from the 1st day of May,

1870, the right to engage in the business of taking fur-seals on the Islands of St. George and St. Paul, within the Territory of Alaska, and to send a vessel or vessels to said islands for the skins of such seals.

And the said Alaska Commercial Company, in consideration of their right under this lease, hereby covenant and agree to pay for each year during said term, and in proportion during any part thereof, the sum of 55,000 dollars into the Treasury of the United States, in accordance with the Regulations of the Secretary, to be made for this purpose under said Act, which payment shall be secured by deposit of United States bonds to that amount, and also covenant and agree to pay annually into the Treasury of the United States, under said Rules and Regulations, a revenue tax or duty of 2 dollars upon each fur-seal skin taken and shipped by them, in accordance with the provisions of the Act aforesaid, and also the sum of 62½ cents for each fur-seal skin taken and shipped, and 55 cents per gallon for each gallon of oil obtained from said seals for sale on said islands or elsewhere, and sold by said Company; and also covenant and agree, in accordance with said Rules and Regulations, to furnish free of charge the inhabitants of the Islands of St. Paul and St. George annually during said term 25,000 dried salmon, 60 cords fire-wood, a sufficient quantity of salt and a sufficient number of barrels for preserving the necessary supply of meat.

And the said lessees also hereby covenant and agree during the term aforesaid to maintain a school on each island, in accordance with said Rules and Regulations, and suitable for the education of the natives of said islands, for a period of not less than eight months in each year.

And the said lessees further covenant and agree not to kill upon said Island of St. Paul more than 75,000 fur-seals, and upon the Island of St. George not more than 25,000 fur-seals, per annum; not to kill any fur-seals upon the islands aforesaid in any other month except the months of June, July, September, and October of each year; not to kill such seals at any time by the use of fire-arms or other means tending to drive the seals from said islands; not to kill any female seal or any seal less than one year old; not to kill any seal in the waters adjacent to said islands, or on the beaches, cliffs or rocks where they haul up from the sea to remain.

And the said lessees further covenant and agree to abide by any restriction or limitation upon the rights to kill seals under this lease that the Act prescribes, or that the Secretary of the Treasury shall judge necessary for the preservation of such seals.

15 And the said lessees hereby agree that they will not in any way sell, transfer, or assign this lease, and that any transfer, sale, or assignment of the same shall be void or of no effect.

And the said lessees further covenant and agree to furnish to the several masters of the vessels employed by them certified copies of this lease to be presented to the Government Revenue officers for the time being in charge of said islands, as the authority of said lessees for the landing and taking said skins.

And the said lessees further covenant and agree that they or their agents shall not keep, sell, furnish, give, or dispose of any distilled spirits or spirituous liquors on either of the said islands to any of the natives thereof, such person not being a physician furnishing the same for use as medicine.

And the said lessees further covenant and agree that this lease is accepted subject to all needful Rules and Regulations which shall at any time or times hereafter be made by the Secretary of the Treasury for the collection and payment of the rentals herein agreed to be paid by said lessees, for the comfort, maintenance, education, and protection of the natives of said islands, and for carrying into effect all the provisions of the Act aforesaid, and will abide by and conform to said Rules and Regulations.

And the said lessees, accepting this lease with a full knowledge of the provisions of the aforesaid Act of Congress, further covenant and agree that they will fulfil all the provisions, requirements, and limitations of said Act, whether herein specifically set out or not.

In witness whereof, the parties aforesaid have hereunto set their hands and seals the day and year above written.

WILLIAM A. RICHARDSON,
Acting Secretary to the Treasury.
JNO. F. MILLER,
President Alaska Commercial Company.

Executed in presence of—
(Signed) J. H. SAVILLE.

I certify the foregoing printed copy of the lease of the United States to the Alaska Commercial Company of the right to take fur-seals in the Territory of Alaska has been compared with the original on file in this Department, and is a true copy thereof.

(Signed) J. H. SAVILLE,
Chief Clerk, Treasury Department.

WASHINGTON, September 3, 1870.

STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO,
Collector's Office, Custom-house, December 23, 1885.

I hereby certify the foregoing to be correct copies of original documents on file at this office.

STATE OF CALIFORNIA,
City and County of San Francisco:

John T. Fogarty, being duly sworn, deposes and says that the foregoing are true and correct copies of original documents on file in the office of the Collector of Customs of the port of San Francisco, that he has compared the foregoing with said originals, and knows them to be correct copies to his own knowledge.

(Signed) JOHN T. FOGARTY.

Subscribed and sworn to before me this 23rd day of December, 1885.

(Signed) JOHN E. HAMILL, *Notary Public.*

No. 7.

Colonial Office to Foreign Office.—(Received October 16.)

DOWNING STREET, *October 16, 1886.*

SIR: With reference to the letter from this Department of the 25th ultimo, respecting the seizure of certain Canadian sealing schoon-
16 ers in Behring's Sea, I am directed by Mr. Secretary Stanhope to transmit to you, to be laid before the Earl of Iddesleigh, copies of three despatches from the Officer administering the Government of Canada on the subject.

Mr. Stanhope would be glad to be informed whether Lord Iddesleigh has directed any action to be taken on the letter above referred to.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure 1 in No. 7.]

Administrator Lord A. E. Russell to Mr. Stanhope.

HALIFAX, NOVA, SCOTIA, *September 27, 1886.*

SIR: I have the honour to forward herewith, for transmission to the Foreign Office, a copy of an approved Report of a Committee of the Privy Council, submitting depositions from some of the officers and men of the Canadian schooners "Onward," "Thornton," and "Carolina," relative to the seizure of those vessels in Behring's Sea by the United States Revenue cutter "Corwin," and their subsequent detention at the port of Ounalaska, in the Territory of Alaska.

2. You will observe from the accompanying papers that it appears that the schooners mentioned are Canadian vessels, fitted out in Victoria, British Columbia, for the capture of seals in the waters of the Northern Pacific Ocean adjacent to Vancouver Island, Queen Charlotte Islands, and Alaska, and that at the time of their seizure by the "Corwin" on the 1st August last they were taking seals in the open sea at a distance of more than 60 miles from land.

3. My Minister of Marine and Fisheries has taken steps to get further depositions from the owners, masters, and crews of the above-mentioned vessels in order that a claim may be made upon the United States Government for damages for the unwarranted seizure of British vessels on the high sea.

4. I have communicated a copy of this Order in Council, with the accompanying papers, to Her Majesty's Minister at Washington.

I have, &c.

[Inclosure 2 in No. 7.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Administrator of the Government in Council, on the 3rd September, 1886.

On a Report dated the 18th September, 1886, from the Minister of Marine and Fisheries, submitting the accompanying papers relative to the seizure of the Canadian schooners "Onward," "Thornton," and "Carolina," in Behring's Sea, by the United States Revenue cutter "Corwin," and their subsequent detention at the port of Ounalaska, in the Territory of Alaska—

1. Copy of a letter from James Ogilvie, master of the Canadian sealing schooner "Carolina;"

2. Copy of a letter from Daniel Munroe, master of the Canadian sealing schooner "Onward;"

3. Deposition of John Dallas, seaman on board the "Thornton;" of Thomas McLardy, cook on board the "Carolina;" of Edward Shields, seaman on board the "Carolina;" and of William Munsie, owner of the "Carolina;" all of the Province of British Columbia:

The Minister observes that from these papers it appears that the schooners mentioned are Canadian vessels fitted out in Victoria, British Columbia, for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver Island, Queen Charlotte's Islands, and Alaska; that at the time of their seizure by the "Corwin" they were taking seals in the open sea out of sight of land, the "Carolina" in latitude 30° 50′ north, longitude 168° 53′ west; the "Onward" in latitude 54° 52′ north, longitude 167° 55′ west; and the "Thornton" in about the same latitude and longitude; and all of them at a distance of more than 60 miles from the nearest land; that they were taken possession of by the United States cutter on the 17 1st August, 1886, and towed to the port of Ounalaska, where they are still detained. The crews of the "Thornton" and "Carolina," with the exception of the captain and one man on each vessel detained at Ounalaska, were sent by the steamer "St. Paul" to San Francisco, California, and then turned adrift, while the crew of the "Onward" was kept at Ounalaska.

At the time of their seizure the "Thornton" had 404 seal-skins on board, the "Onward" 900, and the "Carolina" 686, and these are detained and kept at Ounalaska along with the schooners by the United States authorities.

The Minister states that he has taken steps to get further depositions from the owners, masters, and crews of the vessels above mentioned, in order that a claim may be made upon the United States Government for damages for this unwarranted seizure of British vessels in the open sea.

The Committee recommend that your Excellency be moved to transmit a copy of this Minute, if approved, together with copies of the papers herein mentioned, to the Right Honourable the Principal Secretary of State for the Colonies, for transmission to the Foreign Office, and also copies to Her Majesty's Minister at Washington.

All of which is respectfully submitted for Your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council, Canada.

[Inclosure 3 in No. 7.]

Mr. Ogilvie to Mr. Munsie, August 6, 1886.

(See Inclosure 5 in No. 3.)

[Inclosure 4 in No. 7.]

Mr. D. Munroe to Mr. C. Spring.

SCHOONER "ONWARD," AT PORT ILIOLUK, OUNALASKA,
August 7, 1886.

DEAR SIR: On the 2nd, while the "Onward" was in latitude 54° 52′ north, longitude 167° 55′ west, and about 70 miles from the nearest land, the United States Revenue cutter "Corwin," having the schooners "Thornton" and "Carolina" in tow, boarded us, and sent a crew on board and towed us in here, where we are lying at present with sails bent and seals on board, and a watchman in charge, but cannot find out what they intend to do with us, so I cannot say any more about it at present.

I met the "Favourite" on the 28th. Captain M'Lean was on board of us; we gave him 508 skins, and they had 1,290 they took themselves, making them about 1,800 total, and as we were in sight of each other until the night of the 1st instant he must have made a good catch, for we have 400 skins on board at present that we took in four days, and I am positive his crowd could take twice that number, as we have not got the best of sealers.

I believe all the schooners did well, and I trust they will get away all right. There is no cutter out at present, as there is only two of them up here—one of them up in the Arctic, and the other that brought us here is still watching us here.

We may find out to-day how they are going to dispose of us, but I am in hopes they made false steps, and that they can do nothing more than spoil the season.

They took the schooner "San Diego" in here about a month ago, and took the skins out of her and unbent her sails, and put everything ashore, and they are sending the crew to San Francisco to-day in one of the Fur Company's steamers, the "St. Paul."

Later on: Have heard nothing more, only the crews of the "Thornton" and "Carolina" are going to San Francisco to-day [? by] the steamer "St. Paul," except the captain and one man of each, but they took none of our crew.

There are rumours afloat that the three schooners are to be laid up here all winter, and that we are going to be taken to Sitka, but no certainty. I wrote you this morning as the boat was leaving the wharf, thinking that she was going away, but she came to anchor in the Roads, and I do not think I finished it. I was afraid of being late. We sent a protest on board the cutter against the action of the authorities in seizing the vessel on the high seas, but I do not know if it will amount to much. There is no Notary Public here to sign it. I have nothing more to write you, trusting things will turn out better than we expect.

I remain, &c.

(Signed) DANL. MUNROE.

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[Inclosure 5 in No. 7.]

Declarations of John Dallas, William Munsie, Thomas McLardy, and Edward Shields.

(See Inclosure 10 in No. 3.)

[Inclosure 6 in No. 7.]

Administrator Lord A. E. Russell to Mr. Stanhope, September 27, 1886.

(Substance of telegram of September 22. See Inclosure 1 in No. 3.)

[Inclosure 7 in No. 7.]

Administrator Lord A. E. Russell to Mr. Stanhope.

HALIFAX, NOVA SCOTIA, *September 27, 1886.*

MY LORD: I have the honour to inclose herewith a copy of an approved Minute of my Privy Council, to which is appended a Report by my Minister of Marine and Fisheries, upon which my telegram of the 22nd instant was founded, relative to the seizures of the Canadian schooners "Thornton," "Onward," and "Carolina" while engaged in the peaceable pursuit of their lawful occupation on the high seas.

2. It will be seen from this Report that the masters and mates of the above-mentioned vessels have been tried before the United States District Court at Sitka, in Alaska, and sentences of imprisonment, in addition to heavy fines, imposed upon them, while their property has been subjected to forfeiture.

3. My Ministers are of opinion that the action of the United States authorities with respect to these vessels is indefensible, and that immediate reparation should be demanded from the Government of that country therefor.

I have, &c.

[Inclosure 8 in No. 7.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator of the Government in Council, on the 24th September, 1886.

The Committee of the Privy Council have had before them the annexed Report from the Minister of Marine and Fisheries with reference to the case of the Canadian schooners "Thornton," "Onward," and "Carolina," seized on the 1st August last by the United States authorities in Behring's Sea.

The Committee concur in the said Report, and they advise that the same be carried out.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

[Inclosure 9 in No. 7.]

Report.

In reference to a Report of Council, under date the 23rd September, referring to the case of the Canadian schooners "Thornton," "Onward," and "Carolina," seized on the 1st August by the United States authorities in Behring's Sea, the Undersigned has the honour to lay before Council the following additional information.

19 It is stated in effect in "The Alaskan," a newspaper published at Sitka, in the Territory of Alaska, and bearing date the 4th September, 1886—

1. That the master and mate of the schooner "Thornton" were brought for trial before Judge Dawson in the United States District Court at Sitka on the 30th August last.

2. That the evidence given by the officers of the United States Revenue cutter "Corwin" attempts to show that the "Thornton" was seized while in Behring's Sea, about 60 or 70 miles south-south-east of St. George's Island, for the offence of hunting and killing seals within that part of Behring's Sea which was ceded to the United States by Russia in 1867.

3. That the Judge, in his charge to the jury, after quoting the 1st Article of the Treaty of the 30th March, 1867, between Russia and the United States, in which the western boundary of Alaska is defined, goes on to say: "All the waters within the boundary set forth in this Treaty to the western end of the Aleutian Archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must, therefore, attach against any violation of law within the limits heretofore described.

"If, therefore, the jury believe from the evidence that the defendants by themselves, or in conjunction with others, did, on or about the time charged in the information, kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal or animals, on the shores of Alaska, or in the Behring's Sea east of the 193rd degree of west longitude, the jury should find the defendants guilty, and assess their punishment separately at a fine of not less than 200 dollars nor more than 1,000 dollars, or imprisonment not more than six months, or by both such fine, within the limits herein set forth, and imprisonment."

4. That the jury brought in a verdict of guilty against the prisoners, in accordance with which the master of the "Thornton," Hans Guttounsen, was sentenced to imprisonment for thirty days and to pay a fine of 500 dollars, and the mate of the "Thornton," Norman, was sentenced to imprisonment for thirty days and to pay a fine of 300 dollars, which terms of imprisonment are presumably now being carried into effect.

It also appears, by telegraphic despatch from Nanaimo, British Columbia, dated the 18th September, that the masters and mates of the "Onward" and "Carolina" have since been tried and sentenced to undergo similar penalties to those being inflicted on the master and mate of the "Thornton."

It will appear from the above information, conjoined with the Report of Council under date the 23rd September, that the United States have determined to lay claim to the sole sovereignty of that part of Behring's Sea lying east of the westerly boundary of Alaska, as defined in the 1st Article of the Treaty made between the United States and Russia in 1867, by which Alaska was ceded to the United States, and which includes a stretch of sea extending in its widest part some 600 or 700 miles easterly from the mainland of Alaska.

In pursuance of this claim, they have interfered with the peaceable and lawful occupation of Canadian citizens on the high seas, have taken possession of their ships, have subjected their property to forfeiture, and visited upon their persons

the indignity of imprisonment. They appear to have done this in spite of the admitted principles of international law, and in direct opposition to their own contention of what constitutes common waters upon the Atlantic coast.

In view of the unwarranted and arbitrary action of the United States authorities, the Undersigned recommends that a copy of this Report be sent to Her Majesty's Government to the end that immediate reparation be demanded from the Government of the United States, and that in the meantime the facts contained therein be telegraphed to the Secretary of State for the Colonies and to the British Minister at Washington.

The whole respectfully submitted.

(Signed) GEORGE E. FOSTER,
Minister of Marine and Fisheries.

DEPARTMENT OF FISHERIES, CANADA,
Ottawa, September 21, 1886.

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No. 8.

The Earl of Iddesleigh to Sir L. West.—(Substance telegraphed.)

FOREIGN OFFICE, *October 20, 1886.*

SIR: You have received from the Canadian Government a protest against the claim advanced by the United States authorities in seizing three Canadian schooners which were engaged in the capture of seals in what are alleged to be Alaskan waters.

I request that you will lose no time in protesting against these proceedings in the name of Her Majesty's Government; and you will at the same time reserve for consideration hereafter all rights to compensation which may be brought forward.

Full instructions in regard to this matter will be sent to you by mail.

I am, &c.

(Signed) IDDESLEIGH.

No. 9.

The Earl of Iddesleigh to Sir L. West.

FOREIGN OFFICE, *October 21, 1886.*

SIR: I have to request you to inform me whether the United States Government have replied to the communication which you were directed to make in my despatch of the 9th ultimo, regarding the seizure of British vessels in Behring's Sea by a United States Revenue cutter.

If an answer has been received I should be glad to receive a report of the substance by telegraph.

I should be glad at the same time to know whether any appeal has been lodged against the decisions of the United States Courts condemning certain British subjects in connection with this matter.

I am, &c.

(Signed) IDDESLEIGH.

No. 10.

Sir L. West to the Earl of Iddesleigh.—(Received by telegraph, October 22.)

WASHINGTON, *October 21, 1886.*

MY LORD: With reference to your Lordship's telegram of this day's date, I have the honour to inform your Lordship that no answer has as yet been returned *to the communication which*, in obedience to the

instructions contained in your Lordship's despatch of the 9th ultimo, I addressed to the Secretary of State, asking to be furnished with any particulars which the United States Government may possess relative to the seizures of British vessels in Behring's Sea, and that I have at present no knowledge of any appeal having been made against the decisions of the United States Courts condemning the parties concerned The above information was telegraphed to your Lordship this day.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 11.

The Earl of Iddesleigh to Sir L. West.

FOREIGN OFFICE, *October 30, 1886.*

SIR: Her Majesty's Government are still awaiting a Report on the result of the application which you were directed by my despatch of the 9th ultimo to make to the Government of the United States for information in regard to the reported seizure by the United States Revenue cutter "Corwin" of three Canadian schooners while engaged in the pursuit of seals in Behring's Sea.

In the meanwhile, further details in regard to these seizures
21 have been sent to this country, and Her Majesty's Government now consider it incumbent on them to bring to the notice of the United States Government the facts of the case as they have reached them from British sources.

It appears that the three schooners, named respectively the "Carolina," the "Onward," and the "Thornton," were fitted out in Victoria, British Columbia, for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver's Island, Queen Charlotte Islands, and Alaska.

According to the depositions inclosed herewith from some of the officers and men,* these vessels were engaged in the capture of seals in the open sea out of sight of land, when they were taken possession of on or about the 1st August last by the United States Revenue cutter "Corwin," the "Carolina," in latitude 55° 52′ north, longitude 168° 53′ west, the "Onward" in latitude 50° 52′ north, longitude 167° 55′ west, and the "Thornton" in about the same latitude and longitude.

They were all at a distance of more than 60 miles from the nearest land at the time of their seizure, and on being captured were towed by the "Corwin" to Ounalaska, where they are still detained. The crews of the "Carolina" and "Thornton," with the exception of the captain and one man on each vessel detained at that port, were, it appears, sent by the steamer "St. Paul" to San Francisco, California, and then turned adrift, while the crew of the "Onward" were kept at Ounalaska.

At the time of their seizure the "Carolina" had 686 seal-skins on board, the "Thornton" 404, and the "Onward" 900, and these were

* 1. Copy of a letter from Daniel Munroe, master of the Canadian sealing schooner "Onward."

2. Copy of a letter from James Ogilvie, master of the Canadian sealing schooner "Carolina."

3. Deposition of John Dallas, seaman on board the "Thornton;" of Thomas McLardy, cook on board the "Carolina;" of Edward Shields, seaman on board the "Carolina;" and of Wm. Munsie, owner of the "Carolina;" all of the Province of *British Columbia.*

detained, and would appear to be still kept at Ounalaska along with the schooners by the United States authorities.

According to information given in the "Alaskan," a newspaper published at Sitka, in the Territory of Alaska, and dated the 4th September, 1886, it is reported:

1. That the master and mate of the schooner "Thornton" were brought for trial before Judge Dawson in the United States District Court at Sitka on the 30th August last.

2. That the evidence given by the officers of the United States Revenue cutter "Corwin" went to show that the "Thornton" was seized while in Behring's Sea, about 60 or 70 miles south-south east of St. George Island, for the offence of hunting and killing seals within that part of Behring's Sea which (it was alleged by the "Alaskan" newspaper) was ceded to the United States by Russia in 1867.

3. That the Judge in his charge to the jury, after quoting the Ist Article of the Treaty of the 30th March, 1867, between Russia and the United States, in which the western boundary of Alaska is defined, went on to say: "All the waters within the boundary set forth in this Treaty to the western end of the Aleutian Archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must therefore attach against any violation of law within the limits heretofore described. If, therefore, the jury believe from the evidence that the defendants, by themselves or in conjunction with others, did, on or about the time charged in the information, kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal or animals, on the shores of Alaska or in the Behring's Sea east of 193° of west longitude, the jury should find the defendants guilty, and assess their punishment separately, at a fine of not less than 200 dollars nor more than 1,000 dollars, or imprisonment not more than six months, or by both such fine, within the limits herein set forth, and imprisonment."

4. That the jury brought in a verdict of guilty against the prisoners, in accordance with which the master of the "Thornton," Hans Guttounsen, was sentenced to imprisonment for thirty days and to pay a fine of 500 dollars, and the mate of the "Thornton," Norman, was sentenced to imprisonment for thirty days and to pay a fine of 300 dollars, which terms of imprisonment are presumably now being carried into effect.

There is also reason to believe that the masters and mates of the "Onward" and "Carolina" have since been tried, and sentenced to undergo penalties similar to those now being inflicted on the master and mate of the "Thornton."

You will observe, from the facts given above, that the authorities of the United States appear to lay claim to the sole sovereignty of that part of Behring's Sea lying east of the westerly boundary of Alaska, as defined in the Ist Article of the Treaty concluded between the United States and Russia in 1867, by which Alaska was ceded to the United
22 States, and which includes a stretch of sea extending in its widest part some 600 or 700 miles easterly from the mainland of Alaska.

In support of this claim, those authorities are alleged to have interfered with the peaceable and lawful occupation of Canadian citizens on the high seas, to have taken possession of their ships, to have subjected their property to forfeiture, and to have visited upon their persons the indignity of imprisonment.

Such proceedings, if correctly reported, would appear to have been in violation of the admitted principles of international law.

I request that you will, on the receipt of this despatch, seek an interview with Mr. Bayard and make him acquainted with the nature of the information with which Her Majesty's Government have been furnished respecting this matter, and state to him that they do not doubt that, if on inquiry it should prove to be correct, the Government of the United States will, with their well-known sense of justice, at once admit the illegality of the proceedings resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected, and for the losses which they have sustained.

Should Mr. Bayard desire it, you are authorized to leave with him a copy of this despatch.

I am, &c.

(Signed) IDDESLEIGH.

No. 12.

Sir L. West to the Earl of Iddesleigh.—(Received November 1.)

WASHINGTON, *October 21, 1886.*

MY LORD: Upon the receipt of your Lordship's despatch of the 9th ultimo I immediately addressed a note to the Secretary of State, in accordance with the instructions therein contained, and copy of which is herewith inclosed, requesting to be furnished with any particulars which the United States Government may possess relative to the seizure of certain British Columbian seal schooners by the United States Revenue cruizer "Corwin," but to which I have received no reply.

Upon the receipt of your Lordship's telegram of yesterday's date I addressed the note copy of which is likewise inclosed, protesting, in the name of Her Majesty's Government, against the said seizures, and reserving rights to compensation.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 12.]

Sir L. West to Mr. Bayard.

WASHINGTON, *September 27, 1886.*

SIR: I have the honour to inform you that Her Majesty's Government have received a telegram from the Commander-in-chief of Her Majesty's naval forces on the Pacific Station respecting the alleged seizure of three British Columbian seal schooners by the United States' Revenue cruizer "Corwin;" and I am, in consequence, instructed to request to be furnished with any particulars which the United States Government may possess relative to this occurrence.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 2 in No. 12.]

Sir L. West to Mr. Bayard.

WASHINGTON, *October 21, 1886.*

SIR: With reference to my note of the 27th ultimo, requesting to be furnished with any particulars which the United States Government may possess relative to the seizure in the North Pacific waters of three British Columbian seal schooners 23 by the United States Revenue cruizer "Corwin," and to which I am without reply, I have the honour to inform you that I am now instructed by the Earl of Iddesleigh, Her Majesty's Principal Secretary of State for Foreign Affairs, to protest, in the name of Her Majesty's Government, against such seizure, and to reserve all rights to compensation.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 13.

Admiralty to Foreign Office.—(Received November 5.)

[Extract.]

ADMIRALTY, *November 4, 1886.*

Referring to my letter of the 20th of September last and to previous correspondence, I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the perusal of the Secretary of State for Foreign Affairs, cuttings from a newspaper called the "Daily British Colonist," at Victoria, respecting the seizure of British Columbian sealing schooners in Behring's Sea.

[Inclosure in No. 13.]

Extract from the "Daily British Colonist," Victoria, of October 7, 1886.

[From the "Brooklyn Eagle."]

THE ALASKA SEIZURES.—The recent seizure of vessels in Behring's Sea by the United States Revenue steamer "Corwin," for the alleged illegal capture of seals in the waters of the United States, has attracted a surprisingly small amount of attention, in this quarter at least. This is probably due to the fact that the Cabinet has not had a meeting for some time, and that but one Cabinet Minister remained in Washington, so that there was a lack of information on the subject, which was unfavourable to its discussion. Now, however, we have something like an official Report of what has taken place from the Captain of the "Corwin," and the matter is ripe for the attention of the press of the United States. No one who gives the subject his notice can fail to recognize the fact that it is one of the most important questions this Government was ever called upon to discuss, and that it may involve consequences of the highest moment.

The Captain of the "Corwin," it appears, was acting under positive instructions received at San Francisco, commanding him to seize and deliver to the United States, District Court of Alaska, for condemnation and seizure, all vessels found engaged in the capture of seals within Alaskan waters, which were defined to include all of Behring's Sea east of the line from Behring's Strait to a point west of the most western of the Aleutian Islands. Under this interpretation a vessel might be more than 500 miles from the mainland of America, and still a trespasser in Alaskan waters, and therefore liable to seizure. The complaints which led to the issuing of these instructions came from the Alaska Fur Seal Company, who lease the seal fisheries from the Government for the payment of 317,000 dollars annually.

The vessels captured were six in number, three of them being described as British, one American from San Francisco, but the nationality of the other two is not given. It is not pretended that any of them was within a marine league of the shore; in fact, the only vessel whose place of capture is specifically stated in the despatch is the British schooner "Thornton," which, the Captain of the "Corwin" says, was captured about 70 miles south-south-east of St. George. This would bring her 150 miles from the chain of the Aleutian Islands, and 300 from the nearest point of the mainland.

The captured schooners were taken to Onnalaska, where they were libelled for condemnation, and their crews were conveyed to Sitka, where the masters and mates, in addition to the loss of their vessels, were tried before Judge Dawson, and fined and imprisoned. In the case of the "Thornton," the captain was fined 500 dollars. Judge Dawson, in passing sentence, was very severe on the prisoners, and likened their offence to piracy, telling them that they had no more right to go into the waters of another nation to interfere with its industries than they had to go upon another man's land and appropriate his crops. Judge Dawson, although only
24 a District Judge, considers that his jurisdiction extends over the whole of the waters of Alaska, comprising about 1,000,000 square miles of what would elsewhere be regarded as the high seas, so that he may safely be regarded as the greatest maritime Judge extant.

If it should be reported some days in the papers that a Gloucester fishermen had been captured by a Canadian cruizer 300 miles off the coast of Nova Scotia, and that her master and mate, in addition to the loss of their vessel, had been heavily fined, and were then languishing in a Canadian prison, there would probably be some indignation in New England. Yet that, as regards the maritime aspect of the case, is substantially what the Alaskan seizures amount to. It is maintained, however, that the circumstances of these cases are modified by the fact that Russia claimed the whole Behring's Sea as part of her territory, and that the waters claimed by this Government were ceded as part of Alaska. Judge Dawson is reported to have said on this point that Russia had claimed and exercised jurisdiction over all that portion of Behring's Sea embraced in the boundary-line set forth in the Treaty, and that claim had been tacitly recognized and acquiesced in by the other Maritime Powers of the world for a long series of years prior to the Treaty of the 30th March, 1867. He held that the jurisdiction had been transferred, and that the United States had acquired absolute control and dominion over the area described in the Treaty, and that British vessels, manned by British subjects, had no right to navigate the waters for the purpose of killing fur-bearing seals. If this is good law, that is the end of the matter; but is it good law? Unless we are greatly in error, there are copies of despatches on the files of the State Department, written prior to 1867, in which the Russian claim is distinctly repudiated and denied. Circumstances may have changed since then as to our attitude towards the subject, but the principle has not. And we doubt greatly whether the United States would ever have admitted such a claim if made by another nation. What would be said, for instance, if the British undertook to prevent an American whaler from entering Hudson Bay or traversing the western half of that arm of the Atlantic Ocean which leads to it? Maritime law and international law are the same whether on the Atlantic or the Pacific, and there is certainly something grotesque in the sight of hundreds of American fishermen hovering on the Canadian Atlantic coast just beyond the 3-mile limit, and claiming to enter all bays more than 3 miles wide at the mouth and fish, while, on the Pacific, Canadian vessels are captured 300 miles from the mainland, and the claim is made that a bay more than 1,000 miles wide at the mouth shall be a closed sea to them.

There is another aspect to the case, not international but national. One of the vessels captured was an American schooner from San Francisco. All other American vessels, except those of the Alaska Seal Fur Company, are therefore excluded from these waters, which are claimed as belonging to Alaska. Is there any warrant for this in the Constitution of the United States? It has been the evil policy of the nation to give up the whole Territory of Alaska to one gigantic monopoly, to discourage settlement and all legitimate enterprises not connected with the fur trade. Is this policy to be continued? It surely was not for this purpose that the territory was bought, but that its resources might be developed, and such parts of it as are suitable for settlement opened to industrious workers. But for nineteen years Alaska has been nothing but the reserve of a great Corporation, which is even now scheming to obtain a renewal of its franchises there. The matter is one of the greatest interest and importance to the American people, who are not desirous of establishing monopolies in Alaska or elsewhere, but wish to see all their territory opened up and made available for the use of all our citizens.

No. 14.

Messrs. Lampson and Co. to the Earl of Iddesleigh.—(Received November 13.)

64, QUEEN STREET, LONDON, *November 12, 1886.*

MY LORD: We understand a question of international law has arisen between the Government of the United States on the one hand and the Governments of Great Britain and of the Dominion of Canada on the other hand, respecting the seizure by the United States Revenue cutter "Corwin" of certain Dominion fishing-vessels engaged in capturing fur-seals in the waters of Alaska.

As the future existence of the fur-seal skin trade, in which we have for years past been engaged, largely depends upon the settlement of this question, we beg to submit, for your consideration, the following facts:

Situated in the waters of Alaska, latitude 57° north, longitude 170° west, is the Pribylov group of islands, belonging to the United States.

These islands, which are occupied every year from May to October by a large number of fur-seals for the purpose of breeding, have been leased to an American Company, under stringent conditions, which restrict them from killing more than 100,000 young males per annum, and strictly prohibit them from killing any female seals whatever.

The fur-seal being a polygamous animal, the annual increase is not affected by the killing of this limited number of young males; and it has been found that the wise nursing by these means of this very important fishery has not only resulted in the preservation of the seals during the past sixteen years, but has also given an ample supply of skins for purposes of trade.

During the last few seasons, however, fishing-vessels have been fitted out from ports in British Columbia and the United States, and have been engaged in the wholesale slaughter of female seals, which, during the breeding season, swarm in the waters round the islands for a considerable distance out to sea.

Last summer several of the Dominion vessels were seized by the United States cutter, and it is stated that a case is being prepared by the Dominion Government, for presentation to the United States Government, disputing the legality of the said captures.

Should Great Britain deny the right of the United States Government to protect the fishery in an effectual manner, there can be no doubt that the Alaska fur-seals, which furnish by far the most important part of the world's supply of seal-skins, will be exterminated in a very few years, just as in the South Atlantic the Shetland and Georgia fur-seals, which used to furnish even finer pelts than the Alaskas, have already been.

It is evident, therefore, that the benefit derived by the Dominion fishing-vessels from the slaughter of these female seals will be short-lived.

We would next point out that the 100,000 skins, the annual produce of the islands (worth 350,000*l.* at present prices), have been shipped to us for sale and manufacture in London for sixteen years past, thus affording in this city employment for a large amount of capital and means of subsistence to some 10,000 people, many of whom are skilled workmen earning wages up to 3*l.* per week.

We need, therefore, hardly suggest that it would be a shortsighted and disastrous policy to allow such an industry to be destroyed, especially at a time when so much distress is already prevalent among the working classes.

We therefore earnestly trust the British Government will, after verifying the above facts, see its way to give its friendly support to the United States in the exercise of their right to protect and preserve an article of commerce equally affecting the interests of both countries. We have telegraphed to New York for the "Monograph of the Seal Islands," by Professor Elliott, which fully describes the seal life upon the islands. When we have received the book we shall have the pleasure of handing it to your Lordship.

We are, &c.

(Signed) C. M. LAMPSON AND Co.

No. 15.

Colonial Office to Foreign Office.—(Received November 16.)

DOWNING STREET, *November 16, 1886.*

SIR: With reference to previous correspondence, I am directed by Mr. Secretary Stanhope to transmit to you, to be laid before the Earl of Iddesleigh, a telegram which has been received from the Governor-General of Canada respecting the Alaska seizures; and I am to request to be informed of the answer which should be returned to Lord Lansdowne's inquiry.

I am, &c.

(Signed) JOHN BRAMSTON.

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26 [Inclosure in No. 15.—Telegraphic.]

The Marquis of Lansdowne to Mr. Stanhope.

OTTAWA, *November 14, 1886.*

Alaska seizures. Has any answer been received to representations? Papers will be sent you proving that the case is one of great hardship, and that a total disregard of international rights has been shown by the action of the United States. We believe the masters of the vessels are still in prison.

No. 16.

The Earl of Iddesleigh to Sir L. West.

FOREIGN OFFICE, *November 18, 1886.*

SIR: I have to inform you that inquiry has been made by the Government of Canada as to what reply has been received from the Government of the United States to the representations which, as reported in your telegram of the 21st October, you had made to them in regard to the seizure of three schooners from British Columbia by the United States Revenue cruizer "Corwin" in Behring's Sea.

Lord Lansdowne reports that it is believed that the captains of these vessels are still in prison, and that documents will be sent to this

country proving that the case is one of great hardship, and that a total disregard of international rights has been shown in the action of the authorities of the United States.

I have, in consequence, sent you a telegram this day requesting you to report how this case now stands.

I am, &c.

(Signed) IDDESLEIGH.

No. 17.

Sir L. West to the Earl of Iddesleigh.—(Received by telegraph, November 19.)

WASHINGTON, *November 19, 1886.*

MY LORD: Upon the receipt of your Lordship's telegram of yesterday's date I sought an interview with the Secretary of State, and asked him whether he had received the official Report of the proceedings of the Court at Sitka (Alaska) against the British vessels seized in Behring's Sea. Mr. Bayard replied in the negative, and said that he had been urging the Attorney-General in the matter since he last saw me.

It would be, he continued, a complicated question of jurisdiction, for he had been told that many of the seal-skins found on board the British vessels were skins of seals which had not been shot, but clubbed, which proved that a landing had been effected. He said that he would reply to your Lordship's despatch which I had communicated to him as soon as possible.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 18.

Foreign Office to Messrs. Lampson and Co.

FOREIGN OFFICE, *November 19, 1886.*

GENTLEMEN: I am directed by the Earl of Iddesleigh to acknowledge the receipt of your letter of the 12th instant, relative to the seizure of certain British-owned seal-fishing vessels by the United States Revenue cutter "Corwin," in the waters of Alaska; and I am to inform you, in reply, that the question is now under the consideration of Her Majesty's Government.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

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27 No. 19.

Sir L. West to the Earl of Iddesleigh.—(Received November 26.)

WASHINGTON, *November 14, 1886.*

MY LORD: With reference to my despatch of 21st ultimo, I have the honour to inclose to your Lordship herewith copy of a note which I have received from the Secretary of State, explaining and apologizing

for the delay which has occurred in replying to my note of the 21st September last, asking for information respecting the seizure by the United States Revenue cutter "Corwin," in the Behring's Sea, of British vessels, and noting the protest on the part of Her Majesty's Government against such seizures contained in my note of the 21st ultimo, copy of which was inclosed in my above-mentioned despatch.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 19.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *November 12, 1886.*

SIR: The delay in my reply to your letters of the 27th September and 21st October, asking for the information in my possession concerning the seizure by the United States Revenue cutter "Corwin," in the Behring's Sea, of British vessels for an alleged violation of the laws of the United States in relation to the Alaska seal fisheries, has been caused by my waiting to receive from the Treasury Department the information you desired. I tender this fact in apology for the delay and as the reason for my silence; and, repeating what I said verbally to you in our conversation this morning, I am still awaiting full and authentic Reports of the judicial trial and Judgment in the cases of the seizures referred to.

My application to my colleague the Attorney-General to procure an authentic Report of these proceedings was promptly made, and the delay in furnishing the Report doubtless has arisen from the remoteness of the place of trial.

As soon as I am enabled, I will convey to you the facts as ascertained in the trial, and the rulings of law as applied by the Court.

I take leave also to acknowledge your communication of the 21st of October, informing me that you had been instructed by the Earl of Iddesleigh, Her Majesty's Principal Secretary of State for Foreign Affairs, to protest against the seizure of the vessels above referred to, and to reserve all rights of compensation.

All of which shall receive respectful consideration.

I have, &c.

(Signed) T. F. BAYARD.

No. 20.

The Earl of Iddesleigh to Sir L. West.

[Telegraphic.]

FOREIGN OFFICE, *December 6, 1886.*

Canadian Government inquire whether vessels equipping in British Columbia for Behring's Sea fisheries are exposed to seizure.

They seek assurance that no seizures of British vessels will be made beyond territorial waters of Alaska pending settlement of question.

No. 21.

Sir L. West to the Earl of Iddesleigh.—(Received December 24.)

[Extract.]

WASHINGTON, *December 10, 1886.*

I have the honour to acknowledge the receipt of your Lordship's telegram of the 6th instant, and to inclose to your Lordship herewith copy *of a note* which I addressed to the Secretary of State in the sense of it.

2 [Inclosure in No. 21.]

Sir L. West to Mr. Bayard.

WASHINGTON, *December 7, 1886.*

SIR: Referring to your note of the 12th ultimo on the subject of the seizure of British vessels in the Behring's Sea, and promising to convey to me as soon as possible the facts as ascertained in the trial and the rulings of law as applied by the Court, I have the honour to state that vessels are now as usual equipping in British Columbia for fishing in that sea. The Canadian Government, therefore, in the absence of information, are desirous of ascertaining whether such vessels fishing in the open seas and beyond the territorial waters of Alaska would be exposed to seizure, and Her Majesty's Government at the same time would be glad if some assurance could be given that, pending the settlement of the question, no such seizures of British vessels will be made in Behring's Sea.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 22.

Colonial Office to Foreign Office.—(Received January 5.)

DOWNING STREET, *January 4, 1887.*

SIR: With reference to previous correspondence respecting the seizure by the United States Revenue-steamer "Corwin" of certain Canadian schooners engaged in the seal fishery in Behring's Sea, I am directed by Mr. Secretary Stanhope to transmit to you, for such further action in the matter as the Earl of Iddesleigh may think proper, a copy of a despatch from the Governor-General of Canada, inclosing copy of an approved Report of his Privy Council, explaining the views of the Dominion Government in the matter.

Mr. Stanhope would be glad to receive a copy of any communication which Lord Iddesleigh may address to the United States Government in consequence of this further representation from the Government of Canada on the subject.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 22.]

The Marquis of Lansdowne to Mr. Stanhope.

GOVERNMENT HOUSE, OTTAWA, *November 27, 1886.*

SIR: I have the honour to inclose herewith copy of an approved Report of my Privy Council dealing with the recent seizure of the Canadian schooners "Caroline," "Onward," and "Thornton" by the United States Revenue steamer "Corwin" while fishing for seals in Behring's Sea.

The statements contained in the Report are sufficient to establish that the claim now put forward on the part of the United States to the sole right of taking fur-bearing animals within the limits laid down in the 1st Article of the Treaty of 1867 is inconsistent with the rights secured to Great Britain under the Convention of 1825, and is in substance the same as that which, when advanced by the Russian Government on different occasions prior to the cession of Alaska by Russia to the United States, was either strenuously resisted or treated with ridicule and contempt by the Government of the latter Power.

It is impossible to believe that, when by the Convention of 1825 it was agreed that the subjects of Great Britain, as one of the Contracting Parties, should not be "troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same or in fishing therein," any reservation was intended with regard to that part of the Pacific Ocean known as Behring's Sea. The whole course of the negotiations by which *this Convention* and that between Russia and

the United States of the same year were preceded—negotiations which, as pointed out in the Report, arose out of conflicting claims to these very waters—points to the contrary conclusion. It would, indeed, be difficult to condemn the present pre-
29 tensions of the United States authorities in language more convincing or emphatic than that which, while those negotiations were in progress, was used by Mr. Middleton, then Russian Minister at St. Petersburgh, in his Memorandum dated the 13th December, 1823. (*Vide* American State Papers, Foreign Relations, vol. v, No. 384.)

It is laid down in that Memorandum that "the existence of territorial rights to the distance of 100 miles from the coasts upon two opposite continents, and the prohibition of approaching to the same distance from these coasts or from those of all the intervening islands, are innovations in the law of nations and measures unexampled. It must thus be imagined that this prohibition, bearing the pains of confiscation, applies to a long line of coasts with the intermediate islands, situate in vast seas where the navigation is subject to innumerable and unknown difficulties, and where the chief employment, which is the whale fishery, cannot be compatible with a regulated and well-determined course."

Mr. Middleton added that: "Universal usage, which has obtained the force of law, has established for all the coasts an accessory limit of a moderate distance, which is sufficient for the security of the country and for the commerce of its inhabitants, but which lays no restraint upon the universal rights of nations, nor upon the freedom of commerce and navigation."

Under the Treaty of 1867 Russia ceded to the United States "all the rights, franchises, and privileges" then belonging to her in the territory or dominion included within the limits described (*vide* Article VI), but could not cede a right which, in the express terms of the Treaty of 1825, was recognized as belonging to the subjects of the British Crown as well as to those of Russia.

This is, as far as I have been able to ascertain, the first occasion upon which claims of the kind now advanced have been enforced. Sealing-vessels from British Columbia have for some years past frequented the waters of Behring's Sea without molestation, and a letter, of which I inclose a copy, addressed by Mr. William Munsie, of Victoria, British Columbia, to my Minister of Marine and Fisheries, shows how serious will be the effect of this interference upon a well-established and important industry in which many British subjects have a substantial interest.

It is, I think, worth while to contrast the claims now urged by the Government of the United States to exclusive control over a part of the Pacific Ocean, the distance between the shores of which is, as was pointed out by Mr. Adams in 1822, not less than 4,000 miles, with the indignant remonstrances recently made by Mr. Bayard against the action of the Canadian authorities in warning United States fishing-vessels from entering the territorial waters of the Dominion at points where those waters were only a few miles in width and throughout their whole extent in close proximity to Canadian territory. A warning of this kind, when given in respect of the Bay des Chaleurs, which measures about 18 miles at its mouth, was stigmatized by Mr. Bayard in his despatch of the 14th June, 1886, as a "wholly unwarranted pretension of extra-territorial authority," and as an "interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within 3 marine miles of the shore."

I would also draw your attention specially to the great hardship occasioned to the owners and crews of the seized vessels by the confiscation of their catch and by the imprisonment of some of the persons on board of them.

I understand that, owing to the amount of the fines imposed, which were so heavy that the owners have declined to pay them, the captains and mates of the seized vessels, though originally sentenced to thirty days' imprisonment, a term which has long since expired, are still detained. I may add, in explanation of the concluding passage in Mr. Munsie's letter, that Mr. Ogilvie, the captain of the "Caroline," while waiting at Ounalaska for the trial of his vessel, wandered off into the woods, in which it appears, from Mr. Munsie's statement, that he must have perished.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 2 in No. 22.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on November 27, 1886.

The Committee of the Privy Council have had under consideration a communication from Mr. E. C. Baker, M. P., Vice-President of the British Columbia Board of Trade, transmitting a letter from Mr. Theodore Lubbe, the managing owner
30 of the British Columbia sealing fleet, asking information as to the United States claim to the easterly half of Behring's Sea, as American waters, and also a despatch, dated the 26th August last, from the Lieutenant-Governor of British

Columbia, advising of the seizure of the Canadian schooners "Caroline" and "Thornton," by the United States Revenue steamer "Corwin," while engaged in sealing in Behring's Sea.

Also copy of a letter from Daniel Munroe, master of the Canadian sealing schooner "Onward," which has been already forwarded by his Excellency the Governor-General to the Colonial Office, and to Her Majesty's Minister at Washington.

The Sub-Committee of Council, to whom the papers were referred, observe that it appears that the schooners mentioned were Canadian vessels fitted out for the capture of seals in the North Pacific Ocean adjacent to Vancouver Island, Queen Charlotte Island, and Alaska; that they were peaceably pursuing their vocations on the high seas at a distance of some 70 miles from the nearest island, and more than 100 miles from the nearest mainland; that they were taken possession of by the United States Revenue cutter "Corwin" on the 1st August last, and towed to the port of Ounalaska. The crews of the "Thornton" and "Caroline" (with the exception of the captain and one man on each vessel, who were detained at Ounalaska), were sent by steamer to San Francisco, and there turned adrift, while the men of the "Onward" were kept at Ounalaska. The schooners and the seals found on board of them were also detained by the United States authorities.

The authority under which these seizures were made is apparently:

1. A letter of instructions from the Acting Secretary of the Treasury of the United States to Mr. D'Ancona, the Collector of Customs at San Francisco, dated the 12th March, 1881, with inclosures (A of Appendix).

2. A letter from the Secretary of the United States Treasury to the Collector of Customs at San Francisco, dated the 16th March, 1886, confirming the instructions given to Mr. D'Ancona in 1881, and ordering publication of the same (B of Appendix).

3. The Revised Statutes of the United States, the 1596th Section of which prohibits the killing of fur-bearing animals within the limits of Alaska Territory, or in the waters thereof, and Sections 1960 and 1961 of which prohibit the killing of male seals, except at certain times, and under certain restrictions, and of female seals at any time, upon the Islands of St. Paul and St. George, or in the waters adjacent thereto.

The master and mate of the schooner "Thornton" were subsequently (the 13th August last) brought for trial before Judge Dawson, in the United States District Court at Sitka.

The evidence given by the officers of the United States Revenue cutter "Corwin" was to the effect that the "Thornton" was seized while in Behring's Sea, about 60 or 70 miles south-south-east of St. George's Island, for the offence of hunting and killing seals within that part of Behring's Sea which was ceded to the United States by Russia in 1867.

The Judge in his charge to the jury quoted the 1st Article of the Treaty of the 30th March, 1867, between Russia and the United States, in which the boundary of Alaska is defined as follows:

"The western limit, within which the territories and dominion conveyed are contained, passes through a point in Behring's Straits on the parallel of 65° 30′ north latitude, at its intersection by the meridian which passes midway between the Island of Krusenstern or Ignalook and the Island of Ratmanoff or Noonarbook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds then in a straight course nearly south-west through Behring's Straits and Behring's Sea, so as to pass midway between the north-west point of the Island of St. Lawrence and the south-east point of Cape Choukotski, to the meridian of 172° west longitude, thence from the intersection of that meridian in a south-westerly direction, so as to pass midway between the Island of Attou and the Copper Island of the Kormandorski couplet or group, in the North Pacific Ocean, to the meridian of 193° west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian." Executive Documents, 2nd Session, 40th Congress, vol. xiii, document 177.

The Judge is reported to have gone on to say:

"All the waters within the boundary set forth in this Treaty to the western end of the Aleutian Archipelago and chain of island, are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals, must therefore attach against any violation of law within the limits before described.

31 "If, therefore, the jury believe from the evidence that the defendants did by themselves or in conjunction with others, on or about the time charged in the information, kill any otter, mink, martin, sable, or fur-seal, or other fur-bearing animal or animals, on the shores of Alaska, or in the Behring's Sea, east of the 193° of west longitude, the jury should find the defendants guilty, and assess their punishment separately, at a fine of not less than 200 dollars, nor more than 1,000 dollars, or imprisonment not more than six months, or by both, such fines within the limits herein set forth, and imprisonment."

The jury found the prisoners guilty, and the master of the "Thornton" was sentenced to thirty days' imprisonment and to pay a fine of 500 dollars, while the mate was sentenced to a like term of imprisonment and to pay a fine of 300 dollars. It appears from a telegraphic despatch of the 18th September last that the masters and mates of the "Onward" and "Caroline" have since also been tried, and sentenced to undergo penalties similar to those inflicted on the master and mate of the "Thornton."

The Sub-Committee do not here propose to comment on the enlarged construction placed by Judge Dawson on the words "adjacent waters" in the clauses of the Revised Statutes above referred to, further than to remark in passing that its effect would be to convert a purely municipal prohibition into an international obligation, and to claim for the United States a jurisdiction which their Government have in the past not only declined themselves to assert, but which they have strenuously resisted when claimed by another Power.

The following brief instance will illustrate the position taken by the United States Government in the recent past:

As late as the 19th April, 1872, Mr. Boutwell, then Secretary of the United States Treasury, in answer to a request made to him that a Revenue cutter should be sent to the region of Minuak Pass to prevent Australian and Hawaiian vessels from taking seals on their annual migration to the Islands of St. Paul and St. George, declined to accede to the request, and added:

"In addition, I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempts within a marine league of the shore."

Going further back in date, the Sub-Committee find that in 1822 a claim to sovereignty over the Pacific Ocean north of the 51st degree of latitude was put forward by Russia. An Imperial Ukase, issued on the 4th (16th) September, 1821, regulating commerce, whaling, and fishing along the eastern coast of Siberia, the north-western coast of North America, and the Aleutian and other islands, and prohibiting all foreign vessels from landing on the coasts and islands belonging to Russia, or approaching them within less than 100 Italian miles, was communicated to the American Government on the 11th February, 1822 (C of Appendix).

The Honourable John Quincy Adams, at that time United States Secretary of State, wrote on the 25th of the same month to M. de Poletica, the Russian Minister Plenipotentiary, expressing the surprise of the President of the United States at the assertion of a territorial claim by Russia extending to the 51st degree of north latitude on this continent; stating that the exclusion of American vessels from the shore beyond the ordinary distance to which the territorial jurisdiction extends had excited still greater surprise; and requesting an explanation of the grounds of right, upon principles generally recognized by the laws and usages of nations, which could warrant such claims.

M. de Poletica, in a despatch dated the 16th (28th) February, 1882, defends the prohibition as designed to suppress the furnishing by foreigners of arms and ammunition to the natives of Russian America. He adds, however:

"The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to shut seas ('mers fermées'), and the Russian Government might, consequently, judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities."

Mr. Adams deemed it a sufficient answer to this claim to point out the fact that the "distance from shore to shore on this sea in latitude 51° north, is not less than 90° of longitude, or 4,000 miles." (State Papers, vol. ix, p. 471 *et seq.*)

A writer in the "North American Review," in an article published a few months later, says, with respect to Mr. Adams' answer, "A volume on the subject could not have placed the absurdity of the pretensions more glaringly before us." ("North American Review," vol. xv, p. 389.)

32 The position was relinquished by Russia after much negotiation and correspondence (see American State Papers, Foreign Relations, vol. v, p. 432), and on the 17th April, 1824, a Convention was concluded between the United States and that country which was ratified at Washington on the 12th January, 1825, and of which the Ist Article is as follows:

"I. It is agreed that in any part of the great ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts upon points which may not already have been occupied for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles." (State Papers, vol. xii, p. 595.)

The conditions and restrictions relate chiefly to the prevention of illicit trade in *spirituous liquors*, fire-arms, &c.

Negotiations between Great Britain and Russia on the subject of the same Ukase, and the prohibition above referred to, resulted in a Treaty between the two Powers, concluded on the 16th (28th) February, 1825, and containing the following provision, in which the right of fishing and navigation by Great Britain in any part of the Pacific Ocean is recognized:

"It is agreed that the respective subjects of the High Contracting Parties shall not be troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following Articles." (State Papers, vol. xii, p. 38.)

So far as the Sub-Committee are aware, the claim was never revived until it is now for the first time put forward by the United States.

It does not appear necessary to insist at any great length that the conditions attaching to *maria clausa* can not by any possibility be predicated of Behring's Sea, and that the seizure of Canadian vessels at a distance of over 100 miles from the mainland and 70 miles from the nearest island constitutes a high-handed extension of maritime jurisdiction unprecedented in the law of nations, but the Sub-Committee can not conclude without inviting the earnest attention of Her Majesty's Government to the fact that Canadian citizens seized while engaged in the pursuit of their lawful vocation upon the high seas, and more than 70 miles from the nearest land, have been dragged before a foreign Court, their property confiscated, and themselves thrown into prison, where they still remain.

The Sub-Committee express their confident hope that such representations will be at once made to the United States Government as will secure the immediate release of the imprisoned men, and full reparation for all losses and damage sustained by them.

The Committee concur in the foregoing Report, and they advise that your Excellency be moved to transmit a copy of this Minute, if approved, to the Right Honourable the Secretary of State for the Colonies and to Her Majesty's Minister at Washington.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council, Canada.

APPENDIX (A).

Mr. H. F. French, Acting Secretary, Treasury Department, to Mr. D. A. D'Ancona, 717, O'Farrell Street, San Francisco, California, March 12, 1886.

(See Inclosure 7 in No. 3.)

APPENDIX (B).

Mr. D. Manning, Secretary, Treasury Department, to the Collector of Customs, San Francisco, March 16, 1886.

(See Inclosure 7 in No. 3.)

APPENDIX (C).

Edict of His Imperial Majesty, Autocrat of All the Russias.

The Directing Senate maketh known unto all men: whereas, in an Edict of His Imperial Majesty, issued to the Directing Senate on the 4th day of September, and signed by His Imperial Majesty's own hands, it is thus expressed:

"Observing from reports submitted to us that the trade of our subjects on the Aleutian Islands and on the north-west coast of America, appertaining unto Russia, is subjected, because of illicit and secret traffic, to oppression and impediments, and finding that the principal cause of these difficulties is the want of Rules establishing the boundaries for navigation along these coasts, and the order of naval communication, as well in these places as on the whole of the eastern coast of Siberia and the Kurile Islands, we have deemed it necessary to determine these communications by specific Regulations which are hereto attached.

"In forwarding these Regulations to the Directing Senate, we command that the same be published for universal information, and that proper measures be taken to carry them into execution.

(Signed) "Count D. GURIEF, *Minister of Finance.*"

It is therefore decreed by the Directing Senate that His Imperial Majesty's Edict be published for the information of all men, and that the same be obeyed by all whom it may concern.

The original is signed by the Directing Senate.

On the original is written in the handwriting of His Imperial Majesty thus—

"Be it accordingly,

(Signed) "ALEXANDER."

Section 1. The pursuits of commerce, whaling, and fishery, and of all other industry on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring's Straits to the 51st degree of northern latitude, also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring's Straits to the south cape of the Island of Urup, viz., to the 45° 50′ northern latitude, is exclusively granted to Russian subjects.

Section 2. It is therefore prohibited to all foreign vessels, not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo.

OTTAWA, *April 9, 1886.*

SIR: I have the honour to transmit herewith a letter just received from Mr. Theodore Lubbe, the managing owner of our British Columbian sealing fleet, and dated the 30th ultimo; the newspaper clipping attached thereto fully explains the matter embodied therein, and, as will be at once seen, it is a matter of vital importance to our fishing industry and commercial enterprises generally that the same should engage the attention of the Government at the very earliest possible moment, in order that the owners may be apprised with as little delay as possible how they are to act.

I would therefore respectfully urge that the whole subject be referred to his Excellency the Governor-General in Council, so that I may be informed as quickly as is reasonably possible what reply to telegraph; should this mode of procedure be irregular or undesirable, then I would most respectfully ask that such other steps be taken in the premises as to you may appear necessary or expedient, so as to avert trouble in the closely approaching season alluded to, and remove all doubt as to the rights of the parties on the "high seas," or otherwise, as may appear to be reasonably consistent.

I have, &c.

(Signed) EDGAR CROW-BAKER, M. P.,
Vice-President, British Columbian Board of Trade.

The Honourable the SECRETARY OF STATE.

Mr. Lubbe to Mr. E. Crow-Baker, M. P., Victoria, British Columbia, March 30, 1886.

(See Inclosure 8 in No. 3, p. 7.)

Contraband Seal Hunting.

Noticing in your issue of the "Call" of the 25th instant an article referring to the Alaska Fur Company's territory, to oblige a number of your subscribers will you kindly inform us if a vessel hunting seal a marine league off shore in Behring's Sea would be liable to seizure, or does the marine league limit apply to that territory as it does to all land in the high seas?

SEVERAL INTERESTED SUBSCRIBERS.

34 Section 1956, Revised Statutes of the United States, prohibits the killing of fur-bearing animals within the limits of Alaska Territory or the waters thereof, except under an authorization from the Secretary of the Treasury, and it further provided that the Secretary shall not grant any special privileges under this section. Then comes the inquiry: "What is included in the term, 'the waters thereof'?" *The Treaty by which* Alaska was ceded to the United States by Russia defines the

boundaries of the jurisdiction thus conveyed. The western limit, which extends out on the high seas (a questionable conveyance) as far as the meridian of 193° west longitude, so as to include the whole of the Aleutian Archipelago, and thence proceeds north-west to the intersection of the meridian 172° west with the parallel of 65° 30′ north, passes through the middle of Behring's Straits, midway between the Islands of Kousentern, or Ignalook, and Rotmanoff, and thence due north without limitation into the Frozen Ocean. By Act of Congress the laws of the United States are extended over all this territory and water. As Behring's Straits at its narrowest is 36 miles wide, 9 miles from the Alaskan mainland coast would not begin to reach the western limit of our purchase from Russia, and until the right of the United States Government to exclusive jurisdiction over those waters is successfully controverted, you must not violate the law of Congress, by killing seals therein, without the consent of the Secretary of the Treasury, on peril of confiscation. "According to the current of modern authority," says Chancellor Kent, "the general territorial jurisdiction extends into the sea as far as a cannon-shot will reach, and no further, and this is generally calculated to be a marine league (3 miles), and the Congress of the United States has recognized this limitation." The claim of Russia to sovereignty over the Pacific Ocean north of the 51st degree of latitude, as a close sea, was considered by our Government in 1822 as being against the rights of other nations, but now, as we have bought Russia out, it is all right. One's opinions change according to one's standpoint, and besides, cannons shoot farther now than they used to.

[PUBLIC—No. 130.]

An Act to prevent the Extermination of Fur-bearing Animals in Alaska.

(See Inclosure 1 in No. 6.)

Letter dated Treasury Department, Washington, D. C., April 19, 1872.

(See Inclosure 6 in No. 3.)

Indenture dated August 3, 1870.

(See Inclosure 3 in No. 6.)

The Alaska Seizures.

[Extract from the Brooklyn "Eagle."]

(See Inclosure in No. 13.)

[Extract.]

GOVERNMENT HOUSE,
Victoria, British Columbia, August 26, 1886.

I have the honour to report that a few days since I received a telegram from Mr. Mason, acting British Consul at San Francisco, to the following effect:

"'Caroline' and 'Thornton' seized by United States steamer 'Corwin' for illegal sealing; about twenty men from them put on board 'St. Paul' arrived here last night; they ask me for protection and to send them to Victoria. Advise me what to do. They are not charged with anything."

Upon receipt of this I arranged with the owners of the "Caroline" and "Thornton" for the return of the men here, and they arrived on the 23rd.

The "Caroline" and "Thornton," belonging to different owners, are sloops owned here and fitted out here for the prosecution of seal fishing in the North Pacific and Behring's Sea. It seems from the accounts given that they were peaceably pursuing their vocations and not within 70 miles of land when they were seized by United States Revenue steamer "Corwin," as above stated. Some of the men were shipped to San Francisco; the sloops *and their masters are retained* in some Alaska port.

I inclose a cutting from a newspaper published here, which gives as correct an account of the matter as we have at present, and also a statement of the facts relating to the transfer to the United States of the Russian-American possessions and of the lease and concessions granted by the Government of the United States to the Company above mentioned.

The matter has been already laid before the Honourable the Minister of Marine and Fisheries, who opportunely arrived here a few days after my receiving information of it; but I beg to call your earnest attention to it, so that, the whole case being laid before the Imperial authorities, steps may be taken not only to cause reparations to be made for the outrage committed, but to definitely prevent any possible repetition of it.

THE SEALING SCHOONER SEIZURES.

As the late seizures of an American and three British sealing schooners by an American Revenue cutter in the Behring's Sea are almost certain to lead to international complications on account of the extravagance of the assumption upon which those seizures were made, a brief history of the events which led up to them will be acceptable at the present time.

In March 1867 a Treaty was made between Russia and the United States, by which Russia ceded all its possessions in British North America to the Government of the United States. One of the terms of that Treaty declared that the western limit, within which the territories and dominion conveyed are contained, passes through a point in Behring's Straits on the parallel of 65° 30′ north latitude at its intersection by the meridian which passes midway between the Islands of Krusenstern or Ignalook, and proceeds due north without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly south-west through Behring's Sea, so as to pass midway between the north-west point of St. Lawrence and the south-east point of Cape Choutkotski to the meridian of 172° west longitude, thence from the intersection of that meridian in a south-westerly direction so as to pass midway between the Island of Attou and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean to the meridian of 193° west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian. So far, so good.

In July 1870, in the 2nd Session of the 41st Congress, an Act was passed entitled "An Act to prevent the Extermination of Fur-bearing Animals in Alaska," in which the number of seals to be killed for their skins was limited on St. Paul's and St. George's Islands to 75,000 per annum on each island, with power by the Secretary of the Treasury to further limit the number if necessary, and giving that official power to lease for rental mentioned in this Act, to proper and responsible parties, to the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, the parties hitherto engaged in trade, and the protection of the seal fisheries, for a term of twenty-five years from May 1870, the right to engage in taking seals on the Islands of St. Paul and St. George. Another section declares that any person who shall kill any fur-seals on either of the said islands, or in the waters adjacent thereto, without authority from the lessees thereof, or interfere with them in the lawful prosecution of their duty, shall be deemed guilty of a misdemeanour, and shall for each offence or conviction be punished, and all their vessels, tackle, apparel, appurtenances, and cargo shall be forfeited to the United States. In the month following the passage of this Act, that is in August 1870, a lease called the Seal Island Lease was executed between the United States Government and the Alaska Commercial Company, a Corporation established in California. In return for the exclusive privilege of taking for twenty years (with certain restrictions) fur-seals in the Islands of St. Paul and St. George, the lessees agreed to pay the Government an annual sum of 55,000 dollars, 2 dol. 62½ c. for each seal-skin taken, 55 cents for each gallon of seal-oil sold, and to annually provide the natives with a certain quantity of provisions and fuel. The months of June, July, September, and October were, moreover, the only months during which the capture of the seals could be prosecuted. Under this lease or Concession this Company has perpetuated its monopoly for sixteen years, reaping a vast profit therefrom. Not satisfied with the prolific source of its supply, and the facilities afforded it for engaging in the business, the Company has sought and practically succeeded in controlling the fur-seal market by its aggressiveness in pretending to construe the term "and the waters adjacent thereto" as meaning that vast sea of waters included in the limits of cession named in the Russo-American Treaty of 1867. In this interpretation it has received the unrelaxed support of the United States Government, whose interests in the matter are identical with those of the Company; and here it *may be remarked* that the royalty paid by the latter furnishes a handsome profit

upon the purchase-money of Alaska Territory. One or two American Revenue
36 cutters are always cruizing in the Behring's Sea and that portion of the North Pacific to the south of the Aleutian Islands, ever on the alert to prevent any vessels but those of the Alaska Commercial Company from capturing seals there. Meeting with no effectual opposition, and the cost of litigation precluding any chances of success for the appellant, the Government has become more and more aggressive, until finally, changing from a defensive to an offensive supervision, their action has culminated in the deliberate seizure of three British sailing schooners upon, whatever a national greed may declare to the contrary, the high and open seas, recognized by international law as part of the world's great highway, free to the commerce of all countries, and a natural means of intercourse of all nations.

It is laid down as one of the first principles of maritime and commercial international law that the open sea or main ocean is, like the atmosphere, free for common use to all mankind, and cannot be appropriated by any State to the exclusion of the others. Bearing in mind the huge improbability of the act of the Revenue cutter not being in consonance with Governmental orders, what do we find? That a nation, disregarding on one coast the belt of the sea littoral which constitutes the range belonging to coast defence, is actually assuming on another coast supreme maritime jurisdiction over a waste of waters comprising half the northern part of a vast ocean. In the exercise of this self-arrogated authority foreign mercantile vessels are forcibly seized and, with their cargoes, are declared confiscated, while with an unaccountable magnanimity the crews, after being landed at an American port many hundred miles distant from the scene of their capture, are allowed to go at large. It may be advanced that if open to indiscriminate capture the fur-seal would have ere this become extinct, or nearly so. But though this has been the case with the seal in the southern regions it is a fact, which, deplorable as it may be, would furnish a most flimsy excuse to a Government whose regulation of the industry in Alaskan waters is prompted not by philanthropy, but by strictly mercenary considerations. So far has this latter disposition carried them as to cause them to become responsible for an act which, if committed by a vessel privately manned and owned, would bear but one interpretation. As it is, the act is one that is rash, aggressive, and, in the face of what is known, bitterly unjust, and is already spoken of as an unworthy means of reprisal for the late seizures made by Canada of American fishing-vessels on the Atlantic coast. The sealing schooners when seized were over 70 miles from any land, and how, with this fact before them, the United States Government can attempt, with any show of reason, to justify the conduct of the Commander of the "Corwin," it is difficult to imagine. With that evidence we have at hand, the seizures and detention are manifestly illegal, and representations of the affair through the proper official channels have already been forwarded to the Home Government. Britain is not belligerent, the strength she possesses—imparted by the commerce she conducts in every quarter of the globe—she does not misuse.

Mr. Munroe to Mr. Spring, August 7, 1886.

(See Inclosure 4 in No. 7.)

VICTORIA, BRITISH COLUMBIA, *November 15, 1886.*

DEAR SIR: As our sealing schooners will leave Victoria on or about the 10th December for the sealing expeditions of 1887, many of them will not return to Victoria until September, or, in other words, not until the Behring's Sea trip is completed. We are, accordingly, anxious to know what is being done in the case of our seized vessels, and whether or not we may look for protection against what we and even the American press is pleased to term piracy. We have no occasion to interfere with the Alaska Commercial Company's rights on the Priboloff Islands, nor do our vessels come anywhere near land. The fact is, we take out at sea from 50 to 100 miles what the Honourable H. Elliot, of the Smithsonian Institute, in his Report of 1874 on the Seal Islands, calls "batchelor seals," or those not required on breeding-grounds, to which Report I would be pleased to call your attention.

The industry is of too much importance to Canada to allow the Alaska Commercial Company to dictate who shall and who shall not take seals on the high or Behring's Sea. For the season of 1886 there was brought into Victoria from the Pacific Ocean and Behring's Sea, and shipped therefrom to England and the United States, 50,000 skins, valued at about 350,000 dollars. It is evident that the business is worth protecting.

Just here allow me to contradict a statement made by Special Agent Single, of the United States Treasury Department, in which he says that three-fourths of the seals shot in the water sink and are *lost. From the* experience of our hunters I main-

tain but a small percentage is lost in this way, probably not over one in fifty. I
37 doubt if the loss is as great as that caused by the rejection of skins after being clubbed by the Alaska Commercial Company on the islands, to which reference is made in the Tables of Elliot's Report.

The Americans themselves in 1824 repudiated Russia's claim to the Behring's Sea when Russia seized the Boston brig "Pearl" for whaling. Two years later Russia had to give the vessel up, and paid damages.

In conclusion, I may say that the seized skins are liable to be valueless on account of neglect.

Captain Ogilvie's body has been discovered; a jury was empanelled, and a verdict was given in accordance with the facts of the case.

Hoping you may be pleased to advise us in this matter before our vessels sail, you will confer a great favour on your most obedient servant.

(Signed) WM. MUNSIE.

The Honourable GEORGE E. FOSTER,
Minister of Marine and Fisheries.

No. 23.

The Earl of Iddesleigh to Sir L. West.—(Substance telegraphed.)

FOREIGN OFFICE, *January 8, 1887.*

SIR: Referring to previous correspondence in regard to the case of the three Canadian schooners engaged in the seal fishery in Behring's Sea, I transmit to you herewith a copy of a letter from the Colonial Office, with a despatch, and its inclosures, from the Governor-General of Canada, explaining the views of the Dominion Government in the matter.*

Nearly four months have now elapsed since my despatch of the 9th September last was addressed to you, in which you were directed to invite the Government of the United States to furnish you with any particulars they might possess relative to the occurrence; and further instructions were sent to you in my subsequent despatches of the 20th, 21st, and 30th October and the 18th November, but up to the present date no reply has been received from that Government as to the alleged proceedings of their officials.

I have now to instruct you to express to Mr. Bayard the concern of Her Majesty's Government at receiving no reply to the serious representations which they have felt compelled to make on the information which has reached them respecting the proceedings of the United States' cruizer "Corwin" in seizing British sealing schooners on the high seas, and to urge, with all the force which the gravity of the case requires, the immediate attention of the United States' Government to the action of the American authorities in their treatment of these vessels, and of their masters and crews.

I am, &c.

(Signed) IDDESLEIGH.

No. 24.

Sir L. West to the Earl of Iddesleigh.—(Received January 21.)

WASHINGTON, *January 10, 1887.*

MY LORD: I have the honour to acknowledge the receipt of your Lordship's telegram of the 8th instant, and to inclose to your Lordship herewith copy of a note which I immediately addressed to the Secretary

* No. 22.

of State, referring to my notes of the 27th September, 21st October, and 7th December last, and to your Lordship's despatch of the 30th October, copy of which I placed in his hand on the 12th November, and expressing the sense in which Her Majesty's Government viewed his silence with regard to the communications which had been made to him respecting the seizure of British vessels in Behring's Sea.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 24.]

Sir L. West to Mr. Bayard.

WASHINGTON, *January 9, 1887.*

SIR: I have the honour to inform you that I have received instructions from the Earl of Iddesleigh, Her Majesty's Principal Secretary of State for Foreign 38 Affairs, again to bring to your notice the grave representations made by Her Majesty's Government respecting the seizure of the British vessels "Carolina," "Onward," and "Thornton" in Behring's Sea, by the United States cruizer "Corwin," to which no reply has as yet been returned.

On the 27th September last I had the honour to address to you a note in which I stated that Her Majesty's Government requested to be furnished with any particulars which the United States Government might possess relative to this occurrence.

On the 21st October last I had the honour to inform you that I was instructed by the Earl of Iddesleigh to protest, in the name of Her Majesty's Government, against such seizures, and to reserve all rights to compensation.

In a note dated the 12th November last you were good enough to explain the delay which had occurred in answering these communications, and, on the same day, I had the honour to communicate to you a despatch from the Earl of Iddesleigh, a copy of which, at your request, I placed in your hands.

On the 7th ultimo I again had the honour to address you, stating that vessels were equipping in British Columbia for fishing in Behring's Sea, and that the Canadian Government were desirous of ascertaining whether such vessels fishing in the open sea, and beyond the territorial waters of Alaska, would be exposed to seizure, and that Her Majesty's Government would be glad if some assurance could be given that, pending the settlement of the questions, no such seizures of British vessels would be made in Behring's Sea.

The vessels in question were seized at a distance of more than 60 miles from the nearest land at the time of their seizure. The master of the "Thornton" was sentenced to imprisonment for thirty days, and to pay a fine of 500 dollars, and there is reason to believe that the masters of the "Onward" and "Carolina" have been sentenced to similar penalties.

In support of this claim to jurisdiction over a stretch of sea extending in its widest part some 600 or 700 miles from the mainland, advanced by the Judge in his charge to the jury, the authorities are alleged to have interfered with the peaceable and lawful occupation of Canadian citizens on the high seas, to have taken possession of their ships, to have subjected their property to forfeiture, and to have visited upon their persons the indignity of imprisonment. Such proceedings therefore, if correctly reported, would appear to have been in violation of the admitted principle of international law. Under these circumstances, Her Majesty's Government do not hesitate to express their concern at not having received any reply to their representations, nor do they wish to conceal the grave nature which the case has thus assumed, and to which I am now instructed to call your immediate and most serious attention.

It is unnecessary for me to allude further to the information with which Her Majesty's Government has been furnished respecting these seizures of British vessels in the open seas, and which, for some time past, has been in the possession of the United States Government, because Her Majesty's Government do not doubt that if, on inquiry, it should prove to be correct, the Government of the United States will, with their well-known sense of justice, admit the illegality of the proceedings resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected, and for the losses which they have sustained.

In conclusion, I have the honour again to refer to your note of the 12th November last, and to what you said verbally to me on the same day, and to express the hope that the cause of the delay complained of in answering the representations of Her Majesty's Government on this grave and important matter may be speedily removed.

I have, &c. (Signed) L. S. SACKVILLE WEST.

No. 25.

Sir L. West to Her Majesty's Secretary of State, Foreign Office.—(Received January 26.)

WASHINGTON, *January 13, 1887.*

MY LORD: With reference to my despatch of the 7th instant, I have the honour to inclose to your Lordship herewith copy of a note which I have received from the Secretary of State in answer to my communication expressing the concern of Her Majesty's Government at receiving no reply to their representations respecting the seizure of British vessels in Behring's Sea.

I have, &c. (Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 25.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, January 12, 1887.*

SIR: Your note of the 9th instant was received by me on the next day, and I regret exceedingly that, although my efforts have been diligently made to procure from Alaska the authenticated copies of the judicial proceedings in the cases of the British vessels "Carolina," "Onward," and "Thornton," to which you refer, I should not have been able to obtain them in time to have made the urgent and renewed application of the Earl of Iddesleigh superfluous.

The pressing nature of your note constrains me to inform you that on the 27th September last, when I received my first intimation from you that any question was possible as to the validity of the judicial proceedings referred to, I lost no time in requesting my colleague the Attorney-General, in whose Department the cases were, to procure for me such authentic information as would enable me to make full response to your application.

From week to week I have been awaiting the arrival of the papers, and to-day, at my request, the Attorney-General has telegraphed to Portland, in Oregon, the nearest telegraph station to Sitka, in Alaska, in order to expedite the furnishing of the desired papers.

You will understand that my wish to meet the questions involved in the instructions you have received from your Government is averred, and that the delay has been enforced by the absence of requisite information as to the facts.

The distance of the vessels from any land, or the circumstances attendant upon their seizure, are unknown to me, save by the statements in your last note, and it is essential that such facts should be devoid of all uncertainty.

Of whatever information may be in the possession of Her Majesty's Government I have, of course, no knowledge or means of knowledge, but this Department of the Government of the United States has not yet been placed in possession of that accurate information which would justify its decision in a question which you are certainly warranted in considering to be of grave importance.

I shall diligently endeavor to procure the best evidence possible of the matters inquired of, and will make due response thereupon when the opportunity of decision is afforded to me.

You require no assurance that no avoidance of our international obligations need be apprehended.

I have, &c. (Signed) T. F. BAYARD.

No. 26.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *January 27, 1887.*

SIR: With reference to your despatch of the 13th instant, I have to request you to make a point of inquiring from time to time whether the United States Government have received the expected information with regard to the seizures of British vessels engaged in seal-fishing in Behrings's Sea.

I am, &c. (Signed) SALISBURY.

No. 27.

Sir L. West to the Marquis of Salisbury.—(Received by telegraph, February 4.)

WASHINGTON, *February 4, 1887.*

MY LORD: Having reason to believe that the President was about to take some action in the case of the seizure of British vessels in Behring's Sea, I addressed a note, copy of which is inclosed, to the Secretary of State, after the receipt of your Lordship's telegram of the 27th ultimo, inquiring whether the United States Government had received the information and papers connected therewith; and I now have the honour to inclose copy of a note which I have received in reply thereto, stating that the papers in question were expected within a fortnight, and informing me that in the meanwhile, without conclusion at this time of any questions involved, orders have been issued by the President for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith, which information I telegraphed to your Lordship this day.

Since the receipt of the Earl of Iddesleigh's telegram of the 6th December last I have from time to time endeavoured to obtain a decision in the sense of the note now addressed to me, which, as far as it goes, will, I trust, be considered by Her Majesty's Government as a satisfactory result.

In accordance with the instruction contained in the above-mentioned telegram, I have communicated this result to the Governor-General of Canada.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 27.]

Sir L. West to Mr. Bayard.

WASHINGTON, *February 2, 1886.*

SIR: I have the honour to inform you that, under date of the 27th ultimo, the Marquis of Salisbury instructs me to inquire whether the information and papers relative to the seizure of the British schooners "Carolina," "Onward," and "Thornton" have reached the United States Government.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 2 in No. 27.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, February 3, 1887.*

SIR: I beg to acknowledge your note of yesterday's date, received to-day. Upon its receipt I made instant application to my colleague the Attorney-General in relation to the record of the judicial proceedings in the cases of the three British vessels arrested in August last in Behring's Sea for violation of the United States Laws regulating the Alaskan seal fisheries.

I am informed that the documents in question left Sitka on the 26th January, and may be expected to arrive at Port Townsend, in Washington Territory, about the 7th instant, so that the papers, in the usual course of mail, should be received by me within a fortnight.

In this connection, I take occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

I have, &c.

(Signed) T. F. BAYARD.

No. 28.

Colonial Office to Foreign Office.—(Received February 9.)

DOWNING STREET, *February 8, 1887.*

SIR: With reference to previous correspondence respecting the seizure of Canadian sealing schooners in Behring's Sea, I am directed by Secretary Sir H. Holland to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch, with its inclosures, from the Governor-General of Canada on the subject.

Sir H. Holland will be glad to be informed of any action which Lord Salisbury may think proper to take upon this despatch, in order that the Marquis of Lansdowne may be apprised accordingly.

I am, &c.

(Signed) JOHN BRAMSTON.

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41 [Inclosure 1 in No. 28.]

The Marquis of Lansdowne to Mr. Stanhope.

GOVERNMENT HOUSE, *Ottawa, January 15, 1887.*

SIR: With reference to previous correspondence respecting the seizure of Canadian sealing schooners in Behring's Sea, I have the honour to transmit to you, in order that reparation may be sought from the United States Government, a copy of an approved Report of a Committee of the Privy Council of Canada, submitting papers containing full statements of claims for damage sustained and compensation demanded by the owners, masters, and mates of the schooners "Onward," "Thornton," and "Carolina."

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 2 in No. 28.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 3rd January, 1887.

On a Report dated the 27th December, 1886, from the Minister of Marine and Fisheries, submitting papers containing full statements of claims for damage sustained and compensation demanded by the owners, masters, and mates of the sealing schooners "Onward," "Thornton," and "Carolina," which vessels were seized by the United States Revenue cutter "Corwin" in Behring's Sea in August 1886, and concerning which full representations have been made to Her Majesty's Government in despatches bearing date respectively the 23rd and 24th September and the 29th November, 1886, and recommending that copies of the same be transmitted to the Right Honourable the Principal Secretary of State for the Colonies, in order that reparation may be sought from the United States Government for all damages and loss to British subjects consequent upon the illegal action of the United States officers in the cases referred to:

The Committee, concurring in the above, advise that your Excellency be moved to transmit copies of the papers accordingly.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

DOCUMENTS ANNEXED TO PRECEDING REPORT.

The claim of Daniel Munroe, Master of the British Schooner "Onward."

I claim against the Government of the United States, or whom it may concern, the sum of 8,000 dollars for loss of wages, lay-out, damages, and indemnity for illegal seizure of the schooner "Onward" by the Commander of the United States steamer "Corwin" in Behring's Sea on the 1st August, 1886, or thereabouts, and for detention and subsequent wrongful imprisonment in gaol at Sitka.

(Daniel Munroe, by his Attorney in fact),
(Signed) EDGAR CROW-BAKER.

VICTORIA, BRITISH COLUMBIA,
October 20, 1886.

The Claim of Hans Guttormsen, Master of the British Schooner "Thornton."

I claim against the Government of the United States, or whom it may concern, the sum of 8,000 dollars for loss of wages, lay-out, damages, and indemnity for illegal seizure of the schooner "Thornton" by the Commander of the United States steamer "Corwin" in the Behring's Sea on the 1st August, 1886, and for detention and subsequent wrongful imprisonment in gaol at Sitka.

(Hans Guttormsen, by his Attorney in fact),
(Signed) EDGAR CROW-BAKER.

VICTORIA, BRITISH COLUMBIA,
October 20, 1886.

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42 *Damages claimed by the owner of Schooner "Carolina" in respect of her Seizure by the United States Steam-ship "Corwin" while fishing in Behring's Sea.*

British Columbia, to wit.

I, William Munsie, of Victoria, British Columbia, owner of the British schooner "Carolina," do solemnly and sincerely declare:

1. That the value of the said vessel at the time of her seizure by the United States steam-ship "Corwin" was 4,000 dollars, and the cost of her outfit, when she left Victoria for the Behring's Sea, was 3,000 dollars.

2. That she carried a crew of eleven men, and the estimated wages due to the master and men for four months from the 15th day of May, 1886, to the time of the return of the said men to Victoria is 4,500 dollars.

3. That at the time of her capture by the "Corwin" she had 686 seal-skins, which were worth, at 7 dollars each, 4,802 dollars.

4. That the probable catch for the season, estimated from the number of skins taken by the schooner "Mary Ellen," which was 3,554 skins, and by the number of skins taken when the said schooner was captured, would be 3,000 skins, the value of which would be 21,000 dollars.

5. That the loss sustained by me in consequence of the detention of the said schooner, and my being unable to employ her in ordinary work after the sealing season is over, is 450 dollars a-month, which sum I claim until the vessel is returned home in good order and condition.

6. That I have also paid and incurred liabilities connected with the arrest of the said vessel, and in defence of the master and crew, for legal and other expenses, 1,000 dollars.

And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled "An Act for the Suppression of Voluntary and Extra-judicial Oaths."

[L. S.] (Signed) WILLIAM MUNSIE.

Taken and declared before me this 20th October, 1886.

(Signed) M. W. TYRWHITT DRAKE,
Notary Public, Victoria, British Columbia.

Damages claimed by the Owner of the "Onward" and "Favourite" in respect of their Seizure by the United States Steam-ship "Corwin" while fishing in Behring's Sea.

British Columbia, to wit.

I, Charles Spring, of Victoria, British Columbia, owner of the British schooners "Onward" and "Favourite" do solemnly and sincerely declare:

1. That the value of the said vessel "Onward" at the time of her seizure by the United States steam-ship "Corwin" was 4,000 dollars, and the cost of the outfit when she left Victoria for the Behring's Sea was 1,000 dollars.

2. That she carried a crew of twenty men, and the estimated wages due to the master and men for four months from the 12th day of June to the time of their return to Victoria is 7,500 dollars.

3. That at the time of her capture by the "Corwin" she had 400 seal-skins, which were worth 2,800 dollars.

4. That the probable catch for the season estimated on the number of skins taken by other schooners, and by the number of skins taken when the said schooner was captured, would be 3.000 skins, the value of which, at 7 dollars a skin, would be 21,000 dollars.

5. That the loss sustained by me in consequence of the detention of the said schooner, and my being unable to employ her in ordinary work after the sealing season, is over 500 a-month, which sum I claim until the vessel is returned to me in good order and condition.

6. That I have also paid and incurred liabilities connected with the arrest of the said vessel, and in defence of the master and crew for legal and other expenses, 1,000 dollars, and I also claim 3,000 dollars damages, because the officer in command of the United States steam-ship "Corwin" as she passed the "Favourite" ordered her to cease sealing, which she did, and thereby lost her season.

And I make this solemn declaration, conscientiously believing the same to
43 be true, by virtue of an Act passed in the 37th year of Her Majesty's reign, intituled "An Act for the Suppression of Voluntary and Extra-judicial Oaths."

[L. S.] (Signed) C. SPRING.

Taken and declared before me this 18th October, 1886.

(Signed) M. W. TYRWHITT DRAKE,
Notary Public, Victoria, British Columbia

Damages claimed by the Owner of the Steam-vessel "Thornton" for illegal Seizure by the United States Steam-ship "Corwin" while fishing in Behring's Sea.

British Columbia, to wit.

I, James Douglas Warren, of Victoria, British Columbia, owner of the British steam-vessel "Thornton," do solemnly and sincerely declare:

1. That the value of the said vessel at the time of her seizure by the United States steam-ship "Corwin" was 6,000 dollars, and the cost of her outfit when she left Victoria for the Behring's Sea was 4,000 dollars.

2. That she carried a crew of fifteen men, and the estimated wages due to the master and men for four months from the 26th day of May to the 1st day of October, the date of their return to Victoria, which I have to pay, is 5,100 dollars.

3. That at the time of her capture by the "Corwin" she had 403 seal-skins, which, at 7 dollars each, were worth 2,821 dollars.

4. That the probable catch for the season, estimated on the number of skins taken by the schooner "Mary Ellen," and by the number of skins taken when the said vessel was captured, would be 3,000, of the value of 21,000 dollars.

5. That the loss sustained by me in consequence of the detention of the said vessel, and by being unable to employ her in ordinary work after the sealing season is over, is 500 dollars a-month, which sum I claim until the vessel is returned to me in good order and condition.

6. That I have also paid and incurred liabilities connected with the arrest of the said vessel, and defence of the master and crew for legal and other expenses, 1,000 dollars.

And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the Act passed in the 37th year of Her Majesty's reign, intituled "An Act for the Suppression of Voluntary and Extra-judicial Oaths."

[L. S.] (Signed) J. D. WARREN.

Taken and declared at Victoria this 19th October, 1886, before me.

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

Victoria, British Columbia.

I, James Blake, mate of the schooner "Carolina," claim 5,000 dollars as damages for my illegal arrest and imprisonment on board the "Corwin" and in gaol at Sitka from the 1st August to the 16th September, 1886.

(Signed) JAMES BLAKE.

Witness:
(Signed) M. W. TYRWHITT DRAKE.

Victoria, British Columbia.

I, John Margotich, mate of the schooner "Onward," claim 5,000 dollars as damages for my illegal arrest and imprisonment on board the United States vessel "Corwin" and in gaol at Sitka from the 23rd August, 1886, to the 29th September in the same year.

(John Margotich, by his Attorney),
(Signed) C. SPRING.

Witness:
(Signed) M. W. TYRWHITT DRAKE.

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44 Victoria, British Columbia.

I, Harry Norman, mate of the steamer "Thornton," claim as compensation for my illegal arrest and imprisonment on board the United States steam-ship "Corwin" and in gaol at Sitka, the sum of 5,000 dollars, dated the 19th October, 1886.

(Harry Norman, by his Attorney),
(Signed) J. D. WARREN.

OCTOBER 19, 1886.

Witness:
(Signed) M. W. TYRWHITT DRAKE.

Victoria, British Columbia.

I, James Ogilvie, master of the schooner "Carolina," claim as compensation for my arrest and imprisonment on board the United States steam-ship "Corwin" and in gaol at Sitka, the sum of 5,000 dollars, dated the 19th October, 1886.

(James Ogilvie, by his Attorney),
(Signed) A. J. BECKTIL.

OCTOBER 19, 1886.

Witness:
(Signed) M. W. TYRWHITT DRAKE.

Abstract of Damages.

Damages as per declaration.	Schooner "Onward."	Steam-ship "Thornton."	Schooner "Carolina."	Schooner "Favourite."
Value of vessel and outfit	$5,000	$10,000	$7,000	.....
Wages of crew	7,500	5,100	4,500	.....
Value of seal-skins on board	2,800	2,821	4,802	.....
Value of probable catch	21,000	21,000	21,000	.....
Loss sustained by detention, para. 5.	.....	.....	.....	.....
Legal and other expenses	1,000	1,000	1,000	.....
Loss sustained by order to cease sealing	.....	.....	.....	$3,000

For illegal Arrest and Imprisonment.

Daniel Munroe, master of "Onward," for indemnity for illegal seizure, loss, &c.				$8,000
John Margotich, mate of "Onward,"	"	"	"	5,000
Harry Norman, mate of "Thornton,"	"	"	"	5,000
James Ogilvie, master of "Carolina,"	"	"	"	5,000
James Blake, mate of "Carolina,"	"	"	"	5,000
Hans Guttormsen, master of "Thornton,"	"	"	"	8,000

No. 29.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *February 14, 1887.*

SIR: I have laid before the Marquis of Salisbury your letter of the 8th instant, forwarding a copy of a despatch, with its inclosures, from the Governor-General of Canada, relating to the claims for damages sustained and compensation demanded by the owners, masters, and mates of the British schooners "Onward," "Thornton," and "Carolina," which were seized by the United States Revenue cruizer "Corwin" last August, while engaged in seal fishing in Behring's Sea.

In reply, I am directed by his Lordship to request that you will suggest to Sir H. Holland that it might be desirable to defer laying these claims before the Government of the United States until Her Majesty's Government have had an opportunity of examining the statement as to the circumstances under which the seizures took place which is referred to in Sir L. West's telegram of the 4th instant, communicated to you on the following day.

I am to add that, should this suggestion meet with Sir H. Holland's concurrence, instructions will be sent accordingly to Sir L. West.

I am &c.

(Signed) JULIAN PAUNCEFOTE.

No. 30.

Sir L. West to the Marquis of Salisbury.—(Received February 15.)

WASHINGTON, *January 30, 1887.*

MY LORD: I have the honour to transmit herewith the Report of the Governor of Alaska for the year 1886.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 30.]

Extract from the Report of the Governor of Alaska for the Fiscal Year 1886.

PROTECTION OF FUR SEAL AND SEA OTTER.

The capture of one American and three British vessels while engaged in taking seals in the inland waters of Alaska by the Revenue cutter "Corwin" has no doubt been fully reported by her zealous and meritorious Commander, Captain C. A. Abbey, to the proper Department, and but for the fact that the officers and crews were brought to Sitka, and, together with the captured property, turned over to the United States Marshal, the subject might not be considered one within the province of this Report. The masters and mates of the several vessels were tried at a special term of the District Court, and all convicted and sentenced to brief terms of imprisonment, and three of them to payment of fines ranging from 300 dollars to 500 dollars each.

The terms of imprisonment of all save the master of the American vessel having very nearly expired on the 29th September, on the urgent request and recommendation of the honourable Judge of the District Court before whom the convictions were had, I granted respites in the several cases, save the exception noted, and the prisoners were released and allowed to depart for their several homes. They were with

out means, and, had they been detained until the expiration of their sentences, would have become objects of charity among strangers until the sailing of the next monthly steamer.

As these seizures have most probably raised an international question involving the right of the United States to exclusive jurisdiction over the waters of the Behring's Sea north of the Aleutian Islands and east of the 193rd meridian west longitude, it may not be unbecoming in me to suggest that unless that right is insisted upon and maintained, an industry which now yields a revenue equal to a fair rate of interest on the amount paid for the whole of Alaska will not only be destroyed, but the means of livelihood will likewise be taken away from a large number of people whom the Government is bound by every consideration of honour and public policy to protect. I can conceive of no other plan by which the seal fisheries can be preserved than the one long ago adopted and now in vogue; whether they ought not now to be yielding a very much larger revenue to the Government is a question to be discussed a year or two hence. It is reasonably certain, however, that unless our Government asserts and maintains the jurisdiction ceded to it by Russia, the Seal Islands will in a very few years be robbed of all present or prospective value to any one.

It is just as essential to the preservation of this industry that the seals be protected against indiscriminate slaughter while on their way to and from their breeding places as that the number to be taken on the islands should be limited, and every necessary restriction imposed as to age, sex, and the mode of killing. The use of fire-arms is prohibited by law, even to the natives, in the killing of seal and other fur-bearing animals in Alaskan waters and on the islands thereof, and it would be a manifest act of injustice to them to permit either foreign or American vessels to enter and engage in the indiscriminate shooting of such animals in waters
46 over which the United States claims and exercises exclusive jurisdiction and control. Unless our right to such jurisdiction be waved or abandoned, seals once in Behring's Sea are as much the property of the United States as the islands themselves, and should be no less zealously guarded than are the Newfoundland cod-banks by the Dominion of Canada. Unless so guarded, chartered rights will not only be impaired, but a source of large and perpetual revenue to the Government utterly destroyed.

But there are other than selfish reasons why the United States should insist upon its right to exclusive jurisdiction over the waters of Behring's Sea as far west as the boundary line described in the Treaty of Cession. The principal occupation of the inhabitants, some 10,000 or 12,000 in number, of the islands therein and adjacent thereto, is sea-otter hunting, an occupation which will be completely destroyed if its waters are thrown open to all who choose to enter. It is manifestly the duty of the Government to protect these people in the enjoyment of rights which to them are inherent; an abandonment of the jurisdiction claimed by us would be practically assenting that the people in question may be driven from their homes and the employment by which they and their fathers for generations remote have obtained a livelihood.

TRANSPORTATION FACILITIES NEEDED.

In the foregoing connection I desire to call attention to the imperative necessity which exists for some means of transportation for the officials of the Civil Government to and from the different parts of the Territory. In the present condition of affairs the Marshal can only reach a very few points to serve the processes of the Court, and in each and every case must undergo an enforced absence of at least a month. The civil officials are charged with the responsibility of enforcing the laws, and yet are not furnished with the means absolutely necessary to enable them to do so. The authorities at Washington do not seem to realize the fact that there are no waggon or other roads in Alaska, and that all travel must necessarily be by water. Crimes are reported from the various places of settlement, but the executive officers have no available means of going from place to place to make arrests and enforce the laws. Smuggling is carried on, distilled spirits are being surreptitiously imported into the Territory in spite of the decision of the District Court, thousands of dollars' worth of dutiable merchandize is imported across the border from British Columbia, and we are powerless to prevent any of these things.

If a sprightly Revenue cutter could be stationed here with orders to cruize in the inland waters of South-eastern Alaska, and give aid to the Civil Government, by carrying its officers to points necessary to be visited by them on official business, bringing witnesses and jurors, &c., I am reasonably certain the lawlessness now so prevalent could be broken up, the Government's revenue secured, the laws enforced, and life and property rights fully protected. Until something is done in this direction to enable the officials to perform their duties, civil government in Alaska will be little better than a ridiculous farce.

The following letter, addressed to me by the District Attorney, fully explains the necessity of the case, and how it may be provided for without detriment, but rather to the advantage of the Revenue Marine Service:

"DISTRICT OF ALASKA, DISTRICT ATTORNEY'S OFFICE,
"*Sitka, September 20, 1886.*

"SIR: As the official charged with the institution of the initiatory judicial proceedings against parties becoming liable to answer for breach of the laws in this district, I desire to call your attention to a most serious want in the facilities necessary to enable the officers of the Court to perform their duty effectively.

"We are, as matters now stand, entirely dependent on the line of monthly mail-steamers from Port Townsend, Washington, to Sitka, for any certain or regular means of getting to or from other places in the district, being thus not only limited in communication to three or four other Settlements, but also forced to an absence from Sitka of not less than one and possibly two months in any event in which it becomes necessary to visit them. Besides this, there are many Settlements where important business enterprises are located needing protection, which we are not able to visit at all.

"At one of these, Newchuk, some 300 or 400 miles up the coast to the west, a trader was brutally murdered by Indians last December. Valuable mineral discoveries have just been made in that section which it is proposed very soon to develop, and there are large fishing establishments near and trading posts from which appeals have been sent to such officials as could be reached, to have the case inquired
47 into and the offenders punished. The facts in this case are undoubted, and action by the authorities most essential to the interests and protection of all residents. There is also a report of a murder at the Island of Unga, but not yet fully confirmed. There is certainly need of inquiry into certain larcenies and other lawless acts at Kadiak.

"I am utterly powerless to institute the necessary examinations into these cases, in order to bring the parties to justice, and my inability and that of the Court to punish them must continue until we have the means of reaching those localities furnished us.

"Another case is in point: There are now lying at Ounalaska three English schooners, seized for violation of our laws against killing fur-bearing animals within the Territory. The cargoes of these and one other schooner, consisting of over 2,000 seal-skins, forfeited under these laws, are stored at the same place. Under the necessary proceedings in our Court these vessels and their cargoes have been decreed forfeited, and the Marshal will be required to sell them. He is absolutely without the means of getting to Ounalaska at all unless he goes by way of San Francisco, and can only carry out the orders of the Court at the most serious inconvenience. In fact, in the absence of the needed facilities for direct intercommunication between the several sections and Settlements of this district, it is plain that the interests of the Government must greatly suffer, as they have already done, together with those of the people.

"It would be an easy and simple thing to supply this need, at no material increase of expense, in the protection of the Government's interest in Alaska, but rather to their positive advantage. A Revenue vessel stationed at Sitka, subject to the reasonable necessities of the Civil Government, could attend to all the wants occurring, without detriment to the service, necessary for the protection of the seal fisheries and the rights of the lessees of the Pribyloff Islands. Indeed, being here much nearer the waters in which such service is required than she would be at any station lower down the coast, she could perform that duty more conveniently, and at the same time would be able to put a stop to much of the smuggling and illegal importation of liquors into South-eastern Alaska which is now going on.

"There is no doubt that the service necessary in order to make the present civil and judicial government of this Territory something more than a mockery to a large portion of its area and people could be effectually rendered in this way, and the other interests which it is thought necessary to protect by the same means promoted. I trust you will, therefore, represent this necessity to our Government in your forthcoming Report. There are many ways in which it is seriously felt, but which it would be unprofitable to specify.

"Very truly yours,

(Signed) "M. D. BALL,
"*United States District Attorney.*

"Hon. A. P. SWINEFORD,
"*Governor of Alaska.*"

The plan suggested by the District Attorney would not involve any extra expense to the Government over the present cost of the Revenue Marine Service in Alaskan waters; it only implies that Sitka be made head-quarters for the cutter which is sent *every year* from San Francisco for the protection of the seal fisheries and sea-otter

grounds, and be given the additional duty of co-operating with the civil authorities in the way suggested.

Under such an arrangement special terms of Court could be held at Onnalaska and Kadiak during the annual cruize of the cutter, and the laws enforced over a large section of the Territory, to the people of which the Civil Government is at present a thing which exists in name only. A matter which can so easily be arranged, and yet is of such vital importance to the proper and effective administration of the Civil Government, ought, it seems to me, to merit the prompt consideration and favourable action of the proper Departments.

GENERAL REMARKS AND SUGGESTIONS.

It must not be inferred from what I have said concerning the need of transportation facilities, which can only be supplied without large extra expense by means of a Revenue cutter stationed here at Sitka, that the presence of a war-vessel large enough to rate a marine guard can, or ought to be, dispensed with.

A naval vessel, such as the "Pinta," or even one of the second or third rate, is very essential as a means of holding in peaceable subjection the native Settlements which have not yet yielded to civilizing influences, and to assist in restoring order in case of riot and armed resistance to the law on the part of a lawless element among
48 the whites, such as that which incited the recent expulsion of the Chinese from Douglas Island. There is no necessity, however, in my opinion, for keeping a marine guard on shore here at Sitka, while there is an ever-present and prospective need for the presence of such a force at Juneau. Had the war ship and her marine guard been there at the time, I have every reason to believe the expulsion of the Chinese would not have been attempted, or, if it had been, the commanding officer would certainly have been in a position, acting in unison with the civil authorities, to prevent the mob from consummating its unlawful purpose.

The same lawless element that accomplished the forcible removal of the Chinese miners and labourers is likely at any time to demand the discharge of the natives who have been employed to fill the enforced vacancies, and in the absence of an armed force would be enabled to enforce their demand before any relief could be afforded from this point, where the only naval or military force in the Territory is now stationed—and where, I may truthfully add, its presence is not only unnecessary, but wholly useless. The native people here at Sitka are quiet and peaceable, and there is no lawless white element which cannot be held in complete subjection to the law without the aid or intervention of a military force.

The only place in the Territory where there is any prospect of lawlessness beyond the control of the civil authorities is at Juneau, and I respectfully urge that the propriety of transferring the "Pinta" and her marine guard to that point be at once brought to the attention of the honourable Secretary of the Navy.

If for any reason it is not deemed advisable to order the transfer I have suggested, then I venture the further suggestion that the marine guard now stationed here on shore at Sitka be transferred, if not to the ship where they properly belong, then into other quarters than those at present occupied by them in the building popularly known as the "Barracks."

I submit herewith plans showing how and by whom the building is at present occupied, from which it will be seen that there is a juxtaposition of the civil and military altogether unseemly, if not wholly improper. The spectacle at the recent term of Court, when a number of British subjects were on trial, and every morning heard the beat of the drum, calling guard-mount on the portico, simultaneously with the loud proclamation of the crier announcing the opening of Court in the same building, was not one calculated to impress the strangers with an exalted opinion of our boasted free institutions. For appearance's sake, if for no other reason, this marine guard should be removed from this building in which the Courts are held, and the whole of which is needed for the accommodation of the Civil Government. But the truth is, this marine guard has no duty to perform here in Sitka, save that of guarding the few supplies necessary to its own subsistence.

Prior to the institution of civil government the naval commander of the station was, to all intents and purposes, the executive officer of the Territory, and all vessels stationed here were of a rate which entitled them to a marine guard. One-half of this guard was sent ashore to perform police duty, the officer in command exercising the functions of a police magistrate.

With a view to the continuance of this system, the "Pinta" was sent here and furnished with a marine guard of twenty-five men, under command of a Second Lieutenant, all of whom were sent ashore, the Commandant and privates performing the police duties mentioned from the date of her arrival, on the 17th August, 1884, till the 14th September following, when the newly-created Civil Government was inaugurated. Since that time the guard has had no local duties whatever to perform, and has practically been as useless as would be the fifth wheel to a waggon.

In this view of the case, I submit if room occupied by it, and which is urgently required for the use of the Civil Government, ought not to be vacated, and the guard itself transferred to the only point in the Territory where an emergency requiring the services of an armed force is likely to arise. There are buildings at Juneau belonging to the Navy Department large enough for the accommodation of a force twice its size, and I respectfully urge that the Senior Officer be ordered to make the transfer without unnecessary delay.

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49 No. 31.

Colonial Office to Foreign Office.—(Received February 28.)

DOWNING STREET, *February 26, 1887.*

SIR: I am directed by Secretary Sir H. Holland to acknowledge the receipt of your letter of the 14th instant, and to state that he concurs in the Marquis of Salisbury's proposal to defer, temporarily, presenting to the United States the claims to compensation advanced by the Government of Canada in respect of sailing-vessels recently seized in Behring's sea.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 32.

Sir L. West to the Marquis of Salisbury.—(Received March 31.)

WASHINGTON, *March 18, 1887.*

MY LORD: I have the honour to inclose to your Lordship herewith copies of a letter addressed to the President by a firm in San Francisco, engaged in the seal fishery in Behring's Sea, complaining of the pretension of the Alaska Seal Company to exclusive jurisdiction over waters 3,000 miles long and 2,700 miles wide, and setting forth the grievances resulting therefrom. Allusion is made to the case of the American vessel "Ocean Spray," which went to the Island of St. Paul in 1876 and was seized for killing seals, and to the decision of the Judge of the Circuit Court of Oregon, to the effect that the vessel had not violated the Act of Congress. The Treasury Circular of 1872 is also cited as proving that American vessels had the right to enter Behring's Sea, from which the Company sought to exclude them.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 32.]

Extract from the "New York Herald" of March 17, 1887.

[From our regular Correspondent.]

"HERALD" BUREAU, CORNER FIFTEENTH AND G STREETS, N. W.,
Washington, March 16, 1887.

The following letter, addressed to the President, has just been received:

"32, CLAY STREET, SAN FRANCISCO, CALIFORNIA,
"March 2, 1887.

"To his Excellency GROVER CLEVELAND, *President of the United States:*

"SIR: Some respectable business men of the Pacific coast, owners of American vessels, have recently been assailed through the columns of the public press in a semi-official manner as 'marauders' and 'pirates' on the ocean, their property seized and forfeited, their business jeopardized, and their sea ventures utterly destroyed, without any reasonable or justifiable excuse or cause.

"The pretended cause is, and it is so asserted, that they have violated section 1956 of the Revised Statutes of the United States, which forbids the killing of fur-seals or fur-bearing animals 'within' the waters of Alaska Territory, ignoring the fact whether or not they were actually engaged in the killing of seals on the high seas or had made preparations so to do outside of the waters of Alaska Territory. On mere suspicion, they and their property have been remorselessly seized in the name of the United States by officials who have been engaged for the past many months in sounding the praises of the Alaska Commercial Company throughout the land, and adding to their usurpations by vilifying their victims.

"The time seems to have come when the great interests involved in the free and legitimate shipping ventures of the merchant marine of the nation demand that official inquiry be made into the arbitrary conduct of Government officials in Behring's Sea, in connection with the usurpation of a Company at whose instance these arbitrary acts are committed.

"This Company, one of the most stupendous organizations that ever existed in this country, and the peer of the East India and Hudson Bay Companies, was incorporated many years ago under the laws of the State of California as the Alaska Commercial Company.

GRABBING THE OCEAN.

"It has taken possession of and assumed sovereign power over the most valuable fisheries of the whole United States, namely, the Alaska fisheries in Behring's Sea, and without shadow of right or authority, except a lease from the United States, dated the 3rd August, 1870, permitting it to kill 100,000 seals annually upon two small islands in Behring's Sea, at a rent of 55,000 dollars per annum, &c., has taken possession and control, not only of the Territory, but also of a vast sea 3,000 miles long by 2,700 miles wide, has made itself the Suzerain of the Government, and impressed into its service the officers and agents of the Government to maintain its possession and control of this immense territory and sea.

"Alexander the Great was not a robber, although he absorbed kingdoms, and the Alaska Commercial Company is not a "pirate," although it has absorbed Alaska and an ocean.

"It has established exclusive trading posts at all the available stations in that immense territory, on the coast, along the rivers, and upon the islands of Behring's Sea. It exercises absolute dominion over the natives, and holds them in a state of practical bondage. It has exterminated the seals on certain islands to prevent them from falling into the hands of other traders. Its agents have, in violation of law, defaced the silver coin of the United States with a stamp for purposes of trade, and refuse to accept any other when tendered by the natives for the purchase of the necessaries of life. It has extended its dominion into Russian territory to the restriction and detriment of trade upon the whole of Behring's Sea north of latitude 53°, and by an extension of jurisdiction, unknown to modern law, has procured the seizure of vessels fishing in Russian waters, upon the assumption of encroachment upon its privileges granted by the United States under the lease to fish on the Islands of St. Paul and St. George in Alaska.

"CRIMES AGAINST THE NATION.

"It has designedly violated the conditions of its lease by the failure to take oil from the carcasses of the seals killed, to the damage and loss to the Government of hundreds of thousands of dollars, by throwing away millions of carcasses of seals without extracting the oil, the lease having been obtained upon an agreement to pay the Government '55 cents per gallon for oil obtained from said seals' killed by it on the leased islands. Its agents use the United States Revenue cutters as a means of transportation, for private benefit; consult with and influence their officers, to the detriment of American vessels in the waters of Behring's Sea; it aids and abets the Indians of Ounalaska to kill by shooting from the shore, contrary to law, young seals and cows; obtains the skins and sells the salted carcasses back to the Indians; it refuses to aid American vessels in distress, by refusing to sell them provisions; it has for its paid agents officers or employés of the Government whose duty to the Government is overshadowed by the instructions of and for the benefit of the Company; it sells to the natives at high prices large quantities of condemned and worthless tobacco in violation of the internal revenue laws; it employs and pays attorneys to prosecute Government cases where American citizens are falsely and unjustly accused of crime, and, in order to maintain its supremacy over Alaska and the whole of Behring's Sea, it now seeks, by infamous prosecutions, to prevent American citizens from even traversing and fishing upon the high seas, under the absurd pretence that the waters of the whole of Behring's Sea are adjacent to the Islands of St. Paul and St. George, and claims to be molested and disturbed in their lease of said islands by fishing-vessels hundreds of miles away and beyond the boundaries of the United States.

"MONSTROUS CLAIMS.

"This Company claims that the waters of Behring's Sea are within the limits of Alaska, and procures the seizure, through subservient Government officers, of every vessel that dares to traverse those waters, or is found anywhere therein on a seal-
51 hunting voyage.

"It is immaterial to it whether vessels are found in the actual killing of seals or where the seals have been killed; the mere presence of the vessels in Behring's Sea seems sufficient evidence to justify their seizure in any part of those waters.

"In the case of the 'Ocean Spray,' which went to the Island of St. Paul in 1876, the very stronghold of this Company, provided with all the appliances for killing seals and was seized, Judge Deady, of the United States District Court of Oregon, a man of unquestionable learning and of high judicial and personal character, held (in 4 Saw., 105) that all these preparations, even if an intent could be shown, were not a violation of the Act of Congress. This is the only reported adjudicated case, and the strongest the Company could have.

"This vessel deliberately proceeded to, and landed its crew at, the Island of St. Paul, yet the Court held that there was no offence; and when we consider that our vessel has been seized going to and returning from Russian waters, hundreds of miles distant from St. Paul and St. George Islands, and forfeited, and its master and crew imprisoned, we are left to conjecture that the waters adjacent to the leased islands might be stretched to include the whole of the Pacific and Atlantic Oceans, and that the power and rule of this Company extends from these islands to the city of Washington.

"As early as 1872 the Company appealed to the Government to have a Revenue cutter stationed at Ounimak Pass, in the Aleutian group, the only safe entrance to Behring's Sea, to prevent American vessels from passing into that sea; but the Secretary of the Treasury, the Hon. George S. Boutwell, refused, upon the legal ground that vessels had a right to go there if they did not kill seals within a marine league of the shore.

"The Act of Congress contemplates this well-established doctrine when it restricts the killing of seals to the 'waters of Alaska Territory' (section 1956, Revised Statutes), and further declares, in sections 1961 and 1967, that it is not a crime to kill seals in Behring's Sea unless 'in the waters adjacent to the Islands of St. Paul and St. George.' 'Adjacent' means 'lying near, close, or contiguous,' and the waters within the marine league of the decisions are the only 'adjacent waters' there are. But, according to this Company and the officers of the Government, it means a stretch of ocean 3,000 miles long and 2,700 wide; and under this theory of 'adjacency' the term 'pirates' includes all fishing-vessels found in that sea.

"There never has been a seizure within the waters adjacent to these islands, or of Alaska Territory, except the 'Ocean Spray,' and that vessel was released.

"INTERNATIONAL RIGHTS IGNORED.

"Behring's Sea is the international highway to the Arctic Ocean, and not the private property of the Alaska Commercial Company, nor of the Government of the United States, and the Government could not concede to the Alaska Commercial Company any greater territorial right than it possessed itself, and that territorial right and jurisdiction ceases and ends at the 'marine league' of international law from the shore. Beyond this limit the ocean is the common property of the whole world, and every animal and fish in it is *ferœ naturæ*, and belongs to him who takes it.

"This is the doctrine which has come down to us from antiquity and has been observed by all people, whether civilized or barbarous; except this Company and Government officials of the United States.

"A shipper or vessel-owner of the Pacific coast is in no condition to resist the power of an oppressor when his vessel is seized and beached upon an inhospitable and lawless shore, his cargo scattered to the four winds of heaven, and his crew imprisoned in an inaccessible port. The only additional requisite to make this system all-powerful seems to be the annexing of Siberia to the lease, and the transporting of these so-called pirates to its penal mines. The same theory of 'adjacency' would certainly apply.

"Through this policy of Government officers permitting this Company to extend its powers under the lease, the Government will surely lose in the end perhaps the greatest and most profitable industry in the world, namely, the seal fisheries of Alaska.

"The fishery question now agitating the New England States, and the interests involved there, are a mere bagatelle to those of the Alaska fisheries.

"It is charged that our American fishermen are exterminating the seals in Behring's Sea, and they have 'piratically,' during the season of 1886, captured 200,000 *seals* in excess of the number authorized to be taken by the Alaska Commercial *Company at the islands*. This is the statement in a letter to a San Francisco paper,

dated the 20th February, 1887, of Lieutenant J. C. Cantwell, an officer employed in the United States Revenue Service, stationed in Alaskan waters. But this is contradicted by the records of our Courts, which show that only 577 fur-seal skins
52 were seized on American vessels last season, and proof was offered, but not admitted, that these were caught in the Pacific Ocean; and M. Phillipens, the Russian agent of the Alaska Commercial Company, in his Report of the catch of that Company for the season of 1886, states that the Company killed 202,000 fur-seals in the waters of Behring's Sea. So that, on the testimony of the Company itself, these so-called 'piratical' American fishermen are not engaged in the work of extermination to any serious extent, but this Company is engaged in that work. The same Lieutenant Cantwell, who is an ardent (but incoherent) writer, in the same communication, states that not one-half the number of seals are killed that should be, because they are increasing so rapidly; and we feel just cause of complaint that American fishermen are arrested and their property confiscated for doing that which the Alaska Commercial Company is permitted to do in violation of a lease which restricts its catch to the Islands of St. Paul and St. George.

"COURT DECISIONS DISREGARDED.

"Under the decisions of our Courts, and the opinion of the Treasury Department, as given in 1872, every citizen has a right to fish for fur-seals in the waters of Behring's Sea when distant a full marine league from the shore.

"But these decisions and former rulings of the Treasury Department are disregarded, and no one except this Company is permitted to kill seals anywhere in Behring's Sea.

"At a time when Congress is making an effort to protect the fisheries of the Atlantic coast, the officers of the Government on the Pacific coast, with singular inconsistency, are destroying and preying upon the commerce of its own citizens.

"It is to be hoped that this mistaken policy of the Government officials will be changed upon investigation of their conduct and that of the lessees of the Government, and that the great injury heretofore committed, and about to be repeated, upon our fishing-vessels by them, will be prevented.

"We make this statement because we have been despoiled of our property. One of our vessels, the 'San Diego,' seized and taken to Sitka and condemned, her cargo of seal-skins, taken in the open sea, left in the care of the Alaska Commercial Company's warehouse at an island in mid-ocean; the voyage of another schooner, the 'Sierra,' broken up and destroyed; because our efforts to procure the signature of the Judge of the District Court of Alaska to a summary statement of the facts of the cases, for transmission to the Secretary of the Treasury, for a remission of the forfeiture, have been disregarded and ignored at the instigation of the Company, whose own attorney acted as special counsel for the Government in procuring said forfeiture; because our Petition and requests to the Secretary of the Treasury, made months ago for relief, and to bring said property within reach of a civilized community, to prevent its utter destruction by rot and decay, remain unnoticed and unanswered; because it is understood that large appropriations are about to be made for the purpose of enabling Revenue cruizers to continue their policy of preying upon American commerce in Behring's Sea, and guarding those waters as a closed sea. And it is respectfully suggested that the subject-matter be submitted to the Law Officers of the Government, that instructions may be issued and published by the Treasury Department to Revenue Marine officers, to guide them in the proper execution of the laws relating to Alaskan waters, so that all persons engaged in seal fishing may understand their rights in this branch of our domestic commerce.

"Impressed with the belief that we have exhausted our efforts to obtain either a hearing or redress is our apology for appealing to the Chief Executive of the nation.

"With great respect, yours, &c.

(Signed) "L. N. HANDY AND CO."

No. 33.

Colonial Office to Foreign Office.—(Received April 2.)

DOWNING STREET, *April 2, 1887.*

SIR: With reference to previous correspondence, I am directed by Secretary Sir H. Holland to transmit to you, to be laid before the Marquis of Salisbury, copy of a telegram from the Governor-General of Canada inquiring whether owners of vessels now fitting out for this year's trip to Behring's Sea may depend upon being unmolested by United States cruizers when not near land.

I am to request that inquiry may be made of the United States
53 Government on this point, and that Sir H. Holland may be informed of the answer which Lord Salisbury desires should be returned to the Governor-General.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 33.—Telegraphic.]

The Marquis of Lansdowne to Sir H. Holland.

MARCH 31, 1887.

Owners of vessels now fitting out for this year's trip to Behring's Sea inquire whether they may depend upon being unmolested by United States cruizers when not near land. Please telegraph reply.

No. 34.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *April 2, 1887.*

SIR: I have to request that you will inquire of the United States Government whether the owners of vessels at present fitting out for this year's trip to Behring's Sea may depend upon not being molested by United States cruizers when not near the land. You will be good enough to inform me on this subject by telegraph.

I have further to instruct you to ascertain from the United States Government whether they have received the documents connected with the seizure of British vessels last autumn in Behring's Sea, which were referred to in your despatch of the 4th February last.

I am, &c.

(Signed) SALISBURY.

No. 35.

Sir L. West to the Marquis of Salisbury.—(Received April 11.)

WASHINGTON, *March 29, 1887.*

MY LORD: I have the honour to report to your Lordship that the United States steam-ship "Thetis" has sailed from New York, and will proceed round Cape Horn and up the west coast to Alaska. It is reported that the Secretary of the Treasury has received a letter from the Alaska Commercial Company, complaining that private parties are taking seals in the waters about Alaska, and asking for more Revenue cutters to be sent for their protection. The Company further ask that the United States Government should prohibit all killing of seals within the eastern half of Behring's Sea, or from a point beginning at Behring's Straits, and passing from the north-west end of St. Lawrence Island in a south-easterly direction to the Island of Attou, at the extreme westerly point of the Aleutian Archipelago.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 36.

Sir L. West to the Marquis of Salisbury.—(Received April 11.)

WASHINGTON, *April 2, 1887.*

MY LORD: I have the honour to inform your Lordship that the Commander of the United States Revenue cutter "Gallatin" has been cited to appear before the Admiralty Court in the Boston district to answer to the allegation that in June last, while in command of the United States steamer "Corwin," he took by force from the American schooner "Sierra" her arms and ammunition, at a point in the open sea 30 miles north of Ounalaska, while she was navigating the waters of the North Pacific Ocean on a hunting and fishing expedition, thus breaking up her voyage, to the damage of the plaintiffs of 22,500 dollars.

I have instructed Her Majesty's Consul at Boston to watch this case, and report the decision of the Court.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

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54 No. 37.

Sir L. West to the Marquis of Salisbury.—(Received by telegraph, April 13.)

WASHINGTON, *April 13, 1887.*

MY LORD: With reference to your Lordship's telegram of the 2nd instant, I have the honour to inclose to your Lordship herewith copy of a note which I addressed to the Secretary of State, as well as a copy of the reply thereto, stating that the records of the judicial proceedings in the cases of the British vessels seized in Behring's Sea were received at the State Department on Saturday last, and are now under examination, and that the remoteness of the scene of the fur-seal fisheries has delayed the Treasury officials in framing appropriate Regulations and issuing orders to the United States police vessels, which information I had the honour to telegraph to your Lordship this day.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 37.]

Sir L. West to Mr. Bayard.

WASHINGTON, *April 4, 1887.*

SIR: In view of the approaching fishing season in Behring's Sea, and the fitting out of vessels for fishing operations in those waters, Her Majesty's Government have requested me to inquire whether the owners of such vessels may rely on being unmolested by the cruizers of the United States when not near land.

Her Majesty's Government are also desirous to know whether the documents referred to in your note of the 3rd February last, connected with the seizure of certain British vessels beyond the 3-mile limit, and legal proceedings connected therewith, have been received, and I have the honour, therefore, to request you to be good enough to enable me to reply to these inquiries on the part of Her Majesty's Government with as little delay as possible.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 2 in No. 37.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, April 12, 1887.*

SIR: I have the honour to acknowledge your note of the 4th instant, relative to the fisheries in Behring's Sea, and inquiring whether the documents referred to in my note of the 3rd February, relating to the cases of seizure in those waters of vessels charged with violating the laws of the United States regulating the killing of fur-seals, had been received. The records of the judicial proceedings in the cases in the District Court in Alaska referred to were only received at this Department on Saturday last, and are now under examination.

The remoteness of the scene of the fur-seal fisheries, and the special peculiarities of that industry, have unavoidably delayed the Treasury officials in framing appropriate Regulations, and issuing orders to United States vessels to police the Alaskan waters for the protection of the fur-seals from indiscriminate slaughter, and consequent speedy extermination.

The laws of the United States in this behalf are contained in the Revised Statutes relating to Alaska in sections 1956–1971, and have been in force for upwards of seventeen years, and prior to the seizures of last summer but a single infraction is known to have occurred, and that was promptly punished.

The question of instructions to Government vessels in regard to preventing the indiscriminate killing of fur-seals is now being considered, and I will inform you at the earliest day possible what has been decided, so that British and other vessels visiting the waters in question can govern themselves accordingly.

I have, &c.

(Signed) T. F. BAYARD.

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55 ANNEX.

CHAPTER III.

Provisions relating to the Unorganized Territory of Alaska.

Section.

1954. Customs, &c., Laws extended to Alaska.
1955. Importation of Fire-arms and Distilled Spirits may be prohibited.
1956. Killing of Fur-bearing Animals prohibited.
1957. What Courts to have jurisdiction of offences.
1958. Remission of Fines, &c.
1959. Saint Paul and Saint George Islands declared Special Reservations.
1960. Killing of Seal upon them prohibited except in certain months.
1961. Killing of certain Seal prohibited.
1962. Limit to number of Seals to be killed.
1963. Right to take Seal may be leased.
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1966. Covenants in Lease.
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1969. Tax upon Seal-skins.
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1973. Agents and Assistants to manage Seal Fisheries.
1974. Their pay, &c.
1975. Not to be interested in right to take Seals.
1976. Agents may administer certain Oaths and take Testimony.

Customs, &c., Laws extended to Alaska.
27 July, 1868, c. 273, s. 1, v. 15, p. 240.

SEC. 1954. The laws of the United States relating to customs, commerce, and navigation are extended to and over all the main-land, islands, and waters of the territory ceded to the United States by the Emperor of Russia by Treaty concluded at Washington on the 30th day of March, A. D. 1867, so far as the same may be applicable thereto.

Importation and use of fire-arms and distilled spirits may be prohibited.

SEC. 1955. The President shall have power to restrict and regulate or to prohibit the importation and use of fire-arms, ammunition, and distilled spirits into and within the Territory of Alaska. The exportation of the same from any other port or place in the United States,

when destined to any port or place in that Territory, and all such arms, ammunition, and distilled spirits, exported or attempted to be exported from any port or place in the United States and destined for such Territory, in violation of any regulations that may be prescribed under this section, and all such arms, ammunition, and distilled spirits landed or attempted to be landed or used at any port or place in the Territory, in violation of such regulations, shall be forfeited; and if the value of the same exceeds 400 dollars the vessel upon which the same is found, or from which they have been landed, together with her tackle, apparel, and furniture and cargo, shall be forfeited; and any person wilfully violating such regulations shall be fined not more than 500 dollars, or imprisoned not more than six months. Bonds may be required for a faithful observance of such regulations from the master or owners of any vessel departing from any port in the United States having on board fire-arms, ammunition, or distilled spirits, when such vessel is destined to any place in the Territory, or if not so destined, when there is reasonable ground of suspicion that such articles are intended to be landed therein in violation of law; and similar bonds may also be required on the landing of any such articles in the Territory from the person to whom the same may be consigned.

27 July, 1868, c. 273, s. 4, v. 15, p. 241.

Killing of fur-bearing animals prohibited.

Sec. 1956. No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offence, be fined not less than 200 nor more than 1,000 dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur-seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant any special privileges under this section.

27 July, 1868, c. 273, s 6, v. 15, p. 246.

56

What Courts have jurisdiction of offences.

Sec. 1957. Until otherwise provided by law, all violations of this chapter, and of the several laws hereby extended to the Territory of Alaska and the waters thereof, committed within limits of the same, shall be prosecuted in any District Court of the United States in California or Oregon, or in the District Courts of Washington; and the Collector and Deputy Collectors appointed for Alaska Territory, and any person authorized in writing by either of them, or by the Secretary of the Treasury, shall have power to arrest persons and seize vessels and merchandize liable to fines, penalties, or forfeitures under this and the other laws extended over the Territory, and to keep and deliver the same to the Marshal of some one of such Courts; and such Courts shall have original jurisdiction, and may take cognizance of all cases arising under this Act and the several laws hereby extended over the Territory, and shall proceed therein in the same manner and with the like effect as if such cases had arisen within the District or Territory where the proceedings are brought.

27 July, 1868, c. 273, s. 7, v. 15, p. 241.

1 July, 1870, c. 189, s. 7, v. 16, p. 182.

Remission of fines, &c.

Sec. 1958. In all cases of fine, penalty, or forfeiture embraced in the Act approved the 3rd March, 1797, ch. 13, or mentioned in any Act in addition to or amendatory of such Act, that have occurred or may occur in the collection district of Alaska, the Secretary of the Treasury is authorized, if in his opinion the fine, penalty, or forfeiture was incurred without wilful negligence or intention of fraud, to ascertain the facts in such manner and under such regulations as he may deem proper without regard to the provisions of the Act above referred to, and upon the facts so to be ascertained, he may exercise all the power of remission conferred upon him by that Act, as fully as he might have done had such facts been ascertained under and according to the provisions of that Act.

27 July, 1868, c. 273, s. 8, v. 15, p. 242.

Saint Paul and Saint George Islands declared special reservations.

Sec. 1959. The Islands of Saint Paul and Saint George, in Alaska, are declared a special reservation for Government purposes; and until otherwise provided by law it shall be unlawful for any person to land or remain on either of those islands, except by the authority of the Secretary of the Treasury; and any person found on either of those islands contrary to the provisions hereof shall be summarily removed; and it shall be the duty of the Secretary of War to carry this section into effect.

3 Mar., 1869, Res. No. 22, v. 15, p. 348.

Killing of seal upon them prohibited except in certain months. 1 July, 1870, c. 189, s. 1, v. 16, p. 180.

Sec. 1960. It shall be unlawful to kill any fur-seal upon the Islands of Saint Paul and Saint George, or in the waters adjacent thereto, except during the months of June, July, September, and October in each year; and it shall be unlawful to kill such seals at any time by the use of fire-arms, or by other means tending to drive the seals away from those islands; but the natives of the islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing, and for the manufacture of boats for their own use; and the killing in such cases shall be limited and controlled by such regulations as may be prescribed by the Secretary of the Treasury.

Killing of certain seal prohibited. 1 July, 1870, c. 189, s. 2, v. 16, p. 180.

Sec. 1961. It shall be unlawful to kill any female seal, or any seal less than one year old, at any season of the year, except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to the Islands of Saint Paul and Saint George, or on the beaches, cliffs, or rocks where they haul up from the sea to remain; and every person who violates the provisions of this or the preceding section shall be punished for each offence by a fine of not less than 200 dollars, nor more than 1,000 dollars, or by imprisonment not more than six months, or by both such fine and imprisonment; and all vessels, their tackle, apparel, and furniture, whose crews are found engaged in the violation of either this or the preceding section, shall be forfeited to the United States.

Limit to number of seals to be killed. 1 July, 1870, c. 189, s. 3, v. 86, p. 180.

Sec. 1962. For the period of twenty years from the 1st July, 1870, the number of fur-seals which may be killed for their skins upon the Island of Saint Paul is limited to 75,000 per annum; and the number of fur-seals which may be killed for their skins upon the Island of Saint George is limited to 25,000 per annum; but the Secretary of the Treasury may limit the right of killing, if it becomes necessary for the preservation of such seals, with such proportionate reduction of the rents reserved to the Government as may be proper; and every person who knowingly violates either of the provisions of this section shall be punished as provided in the preceding section.

Right to take seal may be leased. 1 July, 1870, c. 189, ss. 4, 5, and 6, v. 16, pp. 180, 181.

57 Sec. 1963. When the lease heretofore made by the Secretary of the Treasury to "The Alaska Commercial Company," of the right to engage in taking fur-seals on the Islands of Saint Paul and Saint George, pursuant to the Act of the 1st July, chapter 189, or when any future similar lease expires, or is surrendered, forfeited, or terminated, the Secretary shall lease to proper and responsible parties, for the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, their comfort, maintenance, and education, as well as to the interests of the parties heretofore engaged in trade and the protection of the fisheries, the right of taking fur-seals on the islands herein named, and of sending a vessel or vessels to the islands for the skins of such seals, for the term of twenty years, at an annual rental of not less than 50,000 dollars, to be reserved in such lease and secured by a deposit of United States bonds to that amount; and every such lease shall be duly executed in duplicate, and shall not be transferable.

Bond. 1 July, 1870, c. 189, s. 4, v. 16, p. 180.

Sec. 1964. The Secretary of the Treasury shall take from the lessees of such islands in all cases a bond, with securities, in a sum not less than 500,000 dollars, conditioned for the faithful observance of all the laws and requirements of Congress, and the Regulations of the Secretary of the Treasury, touching the taking of fur-seals and the disposing of the same, and for the payment of all taxes and dues accruing to the United States connected therewith.

Who may lease. 1 July, 1870, c. 189, s. 5, v. 16, p. 181.

Sec. 1965. No persons other than American citizens shall be permitted, by lease or otherwise, to occupy the Islands of Saint Paul and Saint George, or either of them, for the purpose of taking the skins of fur-seals therefrom, nor shall any foreign vessels be engaged in taking such skins; and the Secretary of the Treasury shall vacate and declare any lease forfeited if the same be held or operated for the use, benefit, or advantage, directly or indirectly, of any persons other than American citizens.

Covenants in lease. 1 July, 1870, c. 189, s. 5, v. 16, p. 181.

Sec. 1966. Every lease shall contain a covenant on the part of the lessee that he will not keep, sell, furnish, give, or dispose of any distilled spirits or spirituous liquors on either of those islands to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine; and every Revenue officer, officially acting as such, on either of the islands, shall seize and destroy any dis-

filled or spirituous liquors found thereon; but such officer shall make detailed Reports of his doings in that matter to the Collector of the port.

Penalty. 1 July, 1870, c. 189, s. 5, v. 16, p. 181.

Sec. 1967. Every person who kills any fur-seal on either of those islands, or in the waters adjacent thereto, without authority of the lessees thereof, and every person who molests, disturbs, or interferes with the lessees, or either of them, or their agents or employés, in the lawful prosecution of their business, under the provisions of this chapter, shall for each offence be punished as prescribed in section 1961; and all vessels, their tackle, apparel, appurtenances, and cargo, whose crews are found engaged in any violation of the provisions of sections 1865 to 1968, inclusive, shall be forfeited to the United States.

Penalty upon lessees. 1 July, 1870, c. 189, s. 5, v. 16, p. 181.

Sec. 1968. If any person or Company, under any lease herein authorized, knowingly kills, or permits to be killed, any number of seals exceeding the number for each island in this chapter prescribed, such person or Company shall, in addition to the penalties and forfeitures herein provided, forfeit the whole number of the skins of seals killed in that year, or, in case the same have been disposed of, then such person or Company shall forfeit the value of the same.

Tax upon sealskins. 1 July, 1870, c. 189, s. 6, v. 16, p. 181.

Sec. 1969. In addition to the annual rental required to be reserved in every lease, as provided in section 1963, a revenue tax or duty of 2 dollars is laid upon each fur-seal skin taken and shipped from the Islands of Saint Paul and Saint George, during the continuance of any lease, to be paid into the Treasury of the United States; and the Secretary of the Treasury is empowered to make all needful regulations for the collection and payment of the same, and to secure the comfort, maintenance, education, and protection of the natives of those islands, and also to carry into full effect all the provisions of this chapter except as otherwise prescribed.

Lease may be terminated. 1 July, 1870, c. 189, s. 6, v. 16, p. 182.

Sec. 1970. The Secretary of the Treasury may terminate any lease given to any person, Company, or Corporation on full and satisfactory proof of the violation of any of the provisions of this chapter or the regulations established by him.

58

Lessees to furnish copies to masters of their vessels. 1 July, 1870, c. 189, s. 4, v. 16, p. 180.

Sec. 1971. The lessees shall furnish to the several masters of vessels employed by them certified copies of the lease held by them respectively, which shall be presented to the Government Revenue officer for the time being who may be in charge at the islands as the authority of the party for landing and taking skins.

Certain sections may be altered. 1 July, 1870, c. 189, s. 8, v. 16, p. 182.

Sec. 1972. Congress may at any time hereafter alter, amend, or repeal sections from 1960 to 1971, both inclusive, of this chapter.

Agents and assistants to manage seal fisheries. 5 March, 1872, c. 31, s. 1, v. 17, p. 35.

Sec. 1973. The Secretary of the Treasury is authorized to appoint one Agent and three Assistant Agents, who shall be charged with the management of the seal fisheries in Alaska, and the performance of such other duties as may be assigned to them by the Secretary of the Treasury.

Their pay, &c. 5 March, 1872, c. 31, s. 1, v. 17, p. 35.

Sec. 1974. The Agent shall receive the sum of 10 dollars each day, one Assistant Agent the sum of 8 dollars each day, and two Assistant Agents the sum of 6 dollars each day while so employed; and they shall also be allowed their necessary travelling expenses in going to and returning from Alaska, for which expenses vouchers shall be presented to the proper accounting officers of the Treasury, and such expenses shall not exceed in the aggregate 600 dollars each in any one year.

Not to be interested in right to take seals. 5 March, 1872, c. 31, s. 1, v. 17, p. 35.

Sec. 1975. Such Agents shall never be interested, directly or indirectly, in any lease of the right to take seals, nor in any proceeds or profits thereof, either as owner, agent, partner, or otherwise.

Agents may administer certain oaths and take testimony. 5 March, 1872, c. 31, s. 3, v. 17, p. 35.

Sec. 1976. Such Agents are empowered to administer oaths in all cases relating to the service of the United States, and to take testimony in Alaska for the use of the Government in any matter concerning the public revenues.

No. 38.

Sir L. West to the Marquis of Salisbury.—(Received May 17.)

WASHINGTON, *May 6, 1887.*

MY LORD: With reference to my despatch of the 2nd April last, I have the honour to inform your Lordship that the case of the owners of the American ships seized for sealing in Behring Sea against the Captain of the United States cruizer "Corwin" has been postponed until the Government is prepared for the defences.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 39.

Sir L. West to the Marquis of Salisbury.—(Received June 10.)

WASHINGTON, *May 30, 1887.*

MY LORD: I have the honour to inclose to your Lordship herewith a statement which has appeared in the New York "Times," showing that the United States Government persistently combated the pretension of Russia to absolute dominion over the Kamschatkan and Behring Seas previous to the cession of Alaska.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 39.]

Extract from the New York "Times" of May 29, 1887.

NOT A LANDLOCKED SEA.—RELEASE OF THE BRITISH SEALERS JUSTIFIED.—The so-called controversy with respect to the Alaskan seal fisheries and American rights to exclusive jurisdiction over the waters of Behring Sea has recently been made the subject of more misrepresentation to the square inch than almost any other
59 pending topic of public discussion. It has been represented that an elaborate Conference on this question is now in progress between the State Department and the British Minister in Washington. Mr. Frederick W. Seward appears to have imbibed this impression, and has suggested several profound conundrums to be proposed by Secretary Bayard to the British Minister in the progress of the controversy. There is no Conference in progress on this matter. When the President, for reasons satisfactory to himself, ordered the release of the British sealing vessels captured by an American Revenue cutter more than 3 miles from shore in Behring Sea that action had the effect of a pardon, and closed all discussion as to the legality of the captures. But there are some historical facts in connection with the question which will probably suggest an exceedingly strong inference.

Mr. Henry W. Elliott, of the Smithsonian Institution, who is stated to have passed several seasons in the islands of the Behring Sea, and to be one of the best-informed men in the United States on the subject of jurisdiction over the waters of that "landlocked sea," as he calls it, has recently contributed to the prevailing wrong impressions two important statements, which are in direct conflict with official records easily accessible. This whole question has so important a bearing upon our present controversy with Great Britain on the subject of the Canadian fisheries and the right claimed by our Canadian neighbours to hamper the deep-sea fisheries of the United States that it is worthy of close examination. Mr. Elliott takes substantially this position:

1. That when the Emperor of Russia, by the Ukase of 1821, declared the absolute dominion of the Russian Crown over all Russian American territory and seas and

bays, including the Kamschatkan or Behring Sea, no protest was made against this assertion of authority by Russia, and none has ever been made since by any civilized Power until last year.

2. That the claim made by the United States about this period related to the North Pacific Ocean only, and that the United States never, in all the correspondence between the years 1822 and 1824, made the slightest reference to or asked for any rights or privileges in the Behring Sea.

What are the facts? A translation of the Ukase of 1821 is published in "British and Foreign State Papers," vol. ix, p. 472. It distinctly sets out that "the pursuits of commerce, whaling, and fishery, and of all other industry on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring Strait (the northern boundary of Behring Sea) to the 51st degree of northern latitude, also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands, from Behring Strait to the south cape of the Island of Urup, is exclusively granted to Russian subjects," and foreign vessels are interdicted from approaching within 100 Italian miles of the coasts and islands named under penalty of confiscation. Having this Ukase before him, John Quincy Adams, Secretary of State, on the 25th February, 1822, wrote to M. Poletica, the Russian Minister, as follows (the letter is printed in the same volume of State Papers, p. 483): "I am directed by the President of the United States to inform you that he has seen with surprise in this Ediet the assertion of a territorial claim on the part of Russia, extending to the 51st degree of north latitude on this continent, and a Regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within 100 Italian miles of the shores to which the claim is made to apply." Mr. Adams adds: "To exclude the vessels of our citizens from the shores beyond the ordinary distance to which the territorial jurisdiction extends has excited still greater surprise," and he closes by asking an explanation.

M. Poletica replied, on the 28th February, 1822 (p. 487): "The Russian possessions in the Pacific Ocean extend on the north-west coast of America from Behring Strait to the 51st degree of north latitude and on the opposite side of Asia to the islands adjacent from the same strait to the 45th degree. The extent of sea of which these possessions form the limit comprehends all the conditions which are ordinarily attached to shut seas ('mers fermées'), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights without taking any advantage of localities."

It is interesting to look at the Map and see what the Russian claim really was. Latitude north 51° takes in the southern boundary of the Aleutian Islands to the Sea of Okhotsk. Mr. Adams, in his reply to M. Poletica (same volume, p. 488), says: "With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea because it claims territory both on the American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea in latitude 51° north is not less than 90° of longitude, or 4,000 miles." He ends by saying the President is persuaded the citizens of the United States will remain unmolested in their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights. This controversy was ended between the United States and Russia by a Convention signed at St. Petersburgh on the 17th April, 1824, in which it was agreed that in no part of the great ocean, commonly called the Pacific Ocean or South Sea, should the respective citizens or subjects of the High Contracting Powers be disturbed or restrained, either in navigation or fishing, or resorting to the coast for the purpose of trading with the natives. Great Britain concluded a similar Treaty in 1825. This Treaty of 1824 remained substantially in force until the cession of Alaska to the United States by Russia.

The claim that Behring Sea is a "landlocked sea" with a "firm line pelagic boundary," advanced by Mr. Elliott, is manifestly absurd, in view of the fact that it is about 900 miles from the Aleutian Islands to the Asiatic coast of Russia. But, even assuming that it could have been treated as a land-locked sea at the time of the Ukase of 1821 by virtue of the possession by one Power of land on both sides, that condition ceased when Russia parted with her territory on one side, just as Great Britain was obliged to abandon her claim to territorial jurisdiction over the Bay of Fundy because the United States owned simply a headland on the other side from her possessions.

The Sea of Okhotsk is one of the seas distinctly referred to in the Ukase of 1821, which called out Adams' protest. Up to 1868, when Russia sold the Kurile Islands to Japan, this was practically a "land-locked sea, having a firm pelagic boundary," as erroneously claimed by Mr. Elliott in regard to the Behring Sea. Yet in "Diplomatic Correspondence," 1868, p. 462, there is a letter addressed by Secretary of State William H. Seward to Cassius M. Clay, our Minister to Russia, dated the 23rd

December, 1867, in which Mr. Seward informed Mr. Clay that much anxiety had been created in the United States by the report that a Russian armed steamer had ordered American whaling-vessels away from the shore near Okhotsk City, in the Sea of Okhotsk, and had fired upon the ship's boat of the bark "Endeavour" of New Bedford. Mr. Seward instructed our Minister to inquire what foundation there was for this report, and what instructions had been given by the Russian Government to authorize this action.

At first the Acting Russian Minister of Foreign Affairs contented himself with claiming, not that the Sea of Okhotsk was a closed sea, but raising the same question of the 3-mile line which now forms so prominent a feature in our Canadian fishery troubles, and saying that by the laws in force the American vessel had been properly warned off, she being within that distance. (This letter is published in "Diplomatic Correspondence," 1868, p. 467.)

Subsequently, in reply to another remonstrance from Mr. Seward, stating that American whalers had been whaling in those bays unobstructed for seventeen years, M. Stoeckl, Russian Ambassador, transmits to Mr. Seward (same volume, p. 485) a copy of a Report from the Russian Minister of Marine, in which he admitted that there could not be found in the Department of Marine any trace of instructions given to Russian cruizers to take any restrictive measures touching the whaling fisheries in the Sea of Okhotsk. This ended the controversy with regard to that sea, which at this time was much more entitled to be considered an inland sea than the Behring Sea.

One illustration of still later date may be given. In "Foreign Relations," 1882, p. 447, there is a letter from Secretary of State Frelinghuysen to Mr. Hoffman, our Chargé d'Affaires at St. Petersburgh, conveying a complaint of a San Francisco firm of restrictions put by the Governor of Eastern Siberia on American fishermen in the Okhotsk and Behring Seas. This was after the cession of Alaska to the United States. Mr. Hoffman (p. 452) transmits a note from M. de Giers, from which it clearly appears that the Russian Government made no pretence of treating either of those seas as closed seas.

The entire fabric of the attempted censure of the State Department for failure to maintain American interests in the Behring Sea is thus thrown to the ground. It is shown that, so far from acknowledging Behring Sea to be a closed sea, the United States has placed itself on record as vigorously opposing any such assumption, not only with regard to Behring Sea, where there was a distance of 900 miles from shore to shore, but also in regard to the Sea of Okhotsk, which might perhaps have been properly regarded as a land-locked sea. In view of these historical facts, and of the important bearing which the maintenance of this doctrine of free, untrammelled rights of commerce, navigation, and fishing on the open sea, which the United States is now engaged in maintaining in other quarters where the national interests involved are immeasurably greater, it requires no spirit of prophecy to divine
61 that the Revenue cutters "Bear" and "Rush," which have been ordered by the Treasury Department from San Francisco to the Behring Sea, have probably been ordered not to repeat the mistake of capturing foreign sealers unless detected *flagrante delicto* within the unquestioned maritime jurisdiction of the United States, namely, 3 miles from shore.

WASHINGTON, *May 28, 1887.*

No. 40.

Colonial Office to Foreign Office.—(Received June 28.)

DOWNING STREET, *June 27, 1887.*

SIR: With reference to previous correspondence respecting the seizure of Canadian sealing schooners in Behring's Sea, I am directed by Secretary Sir Henry Holland to transmit to you, for such action in the matter as the Marquis of Salisbury may think proper to take, a copy of a despatch from the Governor-General of Canada, inclosing copy of an approved Report of the Privy Council respecting the action of the United States authorities towards British subjects in these cases, and urging that full reparation may be demanded from the United States Government.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 40.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, *Toronto, May 21, 1887.*

SIR: With reference to previous correspondence on the subject of the seizure of Canadian sealing schooners in Behring's Sea, I have the honour to forward herewith a copy of an approved Minute of the Privy Council, concurring in a Report of my Minister of Marine and Fisheries, and recommending that the attention of Her Majesty's Government be called to the grave injustice done by the United States authorities to British subjects peaceably pursuing their lawful occupations on the high seas, to the delay which has taken place in inquiring into and redressing wrongs committed, to the severe, inhospitable, and unjustifiable treatment of the officers and crews of the vessels seized, and to the serious loss inflicted upon owners of the same, in order that full and speedy reparation may be made by the United States Government.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 2 in No. 40.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 16th May, 1887.

On a Report dated the 9th May, 1887, from the Minister of Marine and Fisheries, submitting the following *résumé* of facts, with a reference to the Canadian sealing schooners "Carolina," "Onward," and "Thornton," seized by the United States Revenue cutter "Corwin," in Behring's Sea in the year 1886.

The above-named vessels fitted out at Victoria, British Columbia, for seal hunting in the waters of the Pacific Ocean, adjacent to Queen Victoria Islands, Queen Charlotte Islands, and Alaska.

At the time of seizure (1st and 2nd August, 1886) they were at a distance of more than 60 miles from the nearest land. They were taken possession of by the United States cutter, and towed to the port of Oonalaska, where they were detained.

The crews of the "Carolina" and "Thornton," with the exception of the captain and one man detained at Oonalaska, were sent by steamer to San Francisco, and there turned adrift, while the crew of the "Onward" was kept at Oonalaska.

At the time of the seizure, the "Carolina" had on board 686 seal-skins, the "Onward" 900, and the "Thornton" 404. These, as well as the schooners are, so far as the Minister is aware, still at Oonalaska, in possession of the United States authorities.

62 The master and mate of the "Thornton" were brought for trial before Judge Dawson, in the United States District Court at Sitka, on the 30th August, 1886. The evidence given by the officers of the United States Revenue cutter went to show that this vessel was seized for the offence of taking seals in that portion of Behring's Sea ceded to the United States by Russia in 1867, being then at a distance of from 60 to 70 miles from St. George's Island.

The Judge charged the jury to the effect that, if they believed the defendants to have been sealing in the Behring Sea, east of the 193rd degree of longitude west, they should bring in a verdict of "Guilty," and assess separate fines or imprisonment.

The jury brought in a verdict of "Guilty."

The master of the "Thornton" was sentenced to thirty days' imprisonment, and to pay a fine of 500 dollars, and the mate to thirty days' imprisonment and a fine of 300 dollars. The masters and mates of the "Onward" and "Carolina" were mulcted in similar penalties.

On the 23rd and 24th September, 1886, Orders in Council were approved by his Excellency, the Governor-General, setting forth the above facts, and representing the injustice to which Canadian citizens engaged in a peaceable and lawful occupation on the high seas had been subjected, in spite of admitted principles of international law, and in direct opposition to the United States contention of what constitutes common waters on the Atlantic coasts, and copies thereof were forwarded to Her Majesty's Government, with a request that immediate reparation be demanded from the United States Government.

On the 12th November, 1886, Mr. Bayard informed Sir L. West that he was awaiting full and authentic reports of the trial and Judgment in the cases of these seizures before further discussing the matter.

On the 8th January, 1887, the Earl of Iddesleigh addressed Sir L. West, deprecating the delay which had taken place in securing the particulars, calling upon him to urge, with all the force which the gravity of the cases demanded, the immediate

attention of the United States Government to the action of the American authorities in their treatment of these vessels, mates, and crews, and directing him to seek assurance that pending a settlement of the question, no seizures of British vessels would be made beyond the territorial waters of Alaska.

On the 9th January, 1887, Sir L. West wrote to Mr. Bayard, reviewing the whole case, and urging immediate action. On the 12th of the same month Mr. Bayard replied, explaining the reasons of the delay, and stating that every possible dispatch had been made in order to procure the necessary papers.

On the 3rd February Mr. Bayard informed Sir L. West that the documents relative to these seizures left Sitka on the 26th January, and might be expected to reach him within a fortnight. In the meantime, he informed the British Minister that orders had been issued for the discontinuance of all pending proceedings, the discharge of the vessels, and the release of all persons under arrest in connection with these seizures, and that the conclusion of any questions involved must be reserved until the papers relating thereto had arrived.

On the 4th February Sir L. West communicated the above information to his Excellency the Governor-General.

The Minister further states that from information received from the owners of the seized vessels, and from the Collector of Customs at Victoria, British Columbia, he learns that James Ogilvie, an old man and master of the "Carolina," was arrested along with the masters and mates of the "Onward" and "Thornton," and brought into Court for trial, but that before sentence was pronounced he was suffered to wander away in the woods, where he died from want and exposure; that the other masters and mates after remaining several months in prison were released by order of the Governor of Alaska, and turned adrift literally destitute to find their way as best they could to their homes 1,500 miles distant, and which could be reached only by a long and costly sea voyage; that the owners of the condemned vessels have received no intimation from the United States authorities of the release of their vessels or the restoration of the valuable cargo of seal-skins and equipments on board, and that they have no information as to the condition in which their property is at the present time.

The owners are thus left in complete uncertainty as to when or where their property is to be restored, and anticipate serious damage, if not total loss, to their vessels from the tremendous gales which during the past winter have swept the North Pacific coasts. They also state that, knowing well as they do the character of the Indians in that vicinity, and apprehending that no very vigilant watch has been kept over their property, they fear that everything movable will have been carried away. If they are compelled to receive the vessels at Oonalaska, where they have been
63 detained, it will necessitate the chartering of a steamer, with men and supplies, at great expense and a round voyage of some 3,000 miles in order to bring them to Victoria.

The consequent damage and loss to vessels and cargoes through detention, and the heavy cost which will be entailed in bringing them to the home port, the owners consider good grounds for claiming consideration from the United States authorities when the question of reparation is being settled.

The Committee concurring in the foregoing Report of the Minister of Marine and Fisheries advise that your Excellency be moved to call the attention of Her Majesty's Government again to the grave injustice done by the United States authorities to British subjects, peaceably pursuing their lawful occupations on the high seas, and to the great delay which has taken place in inquiring into and redressing the wrongs committed to the severe, inhospitable, and unjustifiable treatment of the officers and crews of the vessels seized, and to the serious loss inflicted upon owners of the same, in order that full and speedy reparation may be made by the United States Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council, Canada.

[Inclosure 3 in No. 40.]

Mr. Hamley to Mr. Tilton.

CUSTOM-HOUSE, *Victoria, April 23, 1887.*

SIR: In reply to your letter of the 15th instant, I beg to state that none of the masters or mates of the vessels seized in Behring's Sea in August last remain now in imprisonment. When the vessels were condemned the Judge, Mr. Dawson, sentenced masters and mates to fines, which were never paid, and to different terms of imprisonment. Ogilvie, master of the "Carolina," an old man, was arrested and brought into Court, but before the sentence was pronounced he wandered away into the woods *and died there.*

The others, after serving a time in prison, were released by an order of the Governor and turned loose literally destitute, to find their way home in any way they could. The vessels themselves, "Carolina," "Onward," and "Thornton," are now, as far as we know, in Oonalaska, but unless they have been properly taken care of, which in such a place seems scarcely probable, they must during the winter months have suffered greatly, even if they are still in existence. The skins taken from them are, we believe, stored in the Alaska Fur Company's warehouses at Oonalaska; the guns and ammunition were taken to Sitka, and are in the care of the United States Marshal.

The chronometers and charts of two of the vessels were left in Oonalaska with the vessels. The chronometer of the other, with one or two boats, was taken, we were told, as evidence to Sitka.

No notice whatever respecting the release of the vessels or the delivery of their equipments or of the skins has been received by the owners. No word of any description has been conveyed to them by the United States authorities.

I have, &c.

(Signed) W. HAMKEY.

[Inclosure 4 in No. 40.]

Messrs. Carne and Mansie to Mr. Tilton.

VICTORIA, B. C., *April 14, 1887.*

DEAR SIR: Your advice of 2nd instant is to hand. In reply, would say we have not been advised whether the vessels are to be returned to us at Victoria, or are we to incur the expense and risk of taking them from Oonalaska, and accept the skins in the condition they may be found, as an offset in full against the amounts set opposite them in our claims. The expense and risk of getting them to Victoria will be great, as there is no direct way of transferring men and supplies a distance of 1,500 miles.

It will necessitate the chartering of a steamer, and, owing to the tremendous gales in the North Pacific the past winter, the vessels may be very seriously damaged, if not totally lost. Knowing the Indians as we do we anticipate everything movable will be carried away.

64 The vessels and skins are left in the care of not too friendly a concern, namely, the Alaska Commercial Company's agent, *alias* the United States Marshal.

Remaining, &c.,

(Signed) CARNE AND MANSIE.

No. 41.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *July 8, 1887.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 27th ultimo relating to the case of the seizure of certain British vessels when engaged in seal-fishing last autumn in Behring's Sea.

In reply, I am to request that you will state to Sir H. Holland that, in Lord Salisbury's opinion, it is very desirable that, before any further representations are made to the United States Government with a view to obtaining reparation, Her Majesty's Government should be in possession of the records of the judicial proceedings in the District Court in Alaska, and instructions have been sent by telegraph to Sir L. West directing him to request that he may be furnished with these documents by the United States Government for the use of Her Majesty's Government.

I am further to request that this Department may be supplied with a copy of the papers which have been laid before the Canadian Parliament in regard to this question.

I am, &c. (Signed) JULIAN PAUNCEFOTE.

No. 42.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *July 9, 1887.*

SIR: Referring to your despatches of the 13th April and the 6th and 30th May last, and to previous correspondence, I transmit, for your information, a copy of a further letter from the Colonial Office relating to the question of the seizure last autumn of certain British vessels when engaged in seal-fishing in Behring's Sea.*

Before giving you further instructions in regard to this matter, I should be glad to have the opportunity of examining the records of the judicial proceedings in the District Court in Alaska, and I request that you will at once apply to the United States Secretary of State, and ask that these documents may be furnished to you for the use of Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 43.

Sir L. West to the Marquis of Salisbury.—(Received July 22.)

WASHINGTON, *July 12, 1887.*

MY LORD: With reference to your Lordship's telegram of the 8th instant, I have the honour to transmit herewith printed copies of the judicial proceedings in the United States District Court for the District of Alaska in the several cases of the schooners "Onward," "Carolina," and "Thornton," proceeded against on a charge of killing fur-seal in Alaska.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 43.]

IN THE UNITED STATES DISTRICT COURT, FOR THE DISTRICT OF ALASKA.

The United States, Libellant, v. The Schooner "Thornton," her Tackle, &c.—On Libel of Information for being engaged in the Business of killing Fur-seal in Alaska.

TRANSCRIPT OF RECORD.

On the 28th day of August, 1886, was filed the following Libel of Information:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.—AUGUST SPECIAL TERM, 1886.

To the Honourable LAFAYETTE DAWSON, *Judge of said District Court:*

The libel of information of M. D. Ball, Attorney for the United States for the District of Alaska, who prosecutes on behalf of said United States, and being present here in Court in his proper person, in the name of and on behalf of the said United States, against the schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

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* No. 40.

That Charles A. Abbey, an officer in the Revenue Marine Service of the United States, and on special duty in the waters of the district of Alaska, heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the said district, on waters navigable from the sea by vessels of 10 or more tons burden, seized the ship or vessel, commonly called a schooner, the "Thornton," her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons to the said Attorney unknown, as forfeited to the United States, for the following causes:

That the said vessel or schooner was found engaged in killing fur-seal within the limits of Alaska Territory, and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said Attorney saith that all and singular the premises are and were true, and within the Admiralty and maritime jurisdiction of this Court, and that by reason thereof, and by force of the Statutes of the United States in such cases made and provided, the afore-mentioned and described schooner or vessel, being a vessel of over 20 tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said Attorney prays that the usual process and monition of this honourable Court issue in this behalf, and that all persons interested in the before-mentioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture may, for the cause aforesaid, and others appearing, be condemned by the definite sentence and decree of this honourable Court, as forfeited to the use of the said United States, according to the form of the Statute of the said United States in such cases made and provided.

(Signed) M. D. BALL,
United States District Attorney for the District of Alaska.

Whereupon forthwith issued the following monition:

DISTRICT OF ALASKA, *Sct.*,

The President of the United States of America to the Marshal of the District of Alaska, greeting:

Whereas a libel of information hath been filed in the District Court of the United States for the District of Alaska, on the 28th day of August, in the year 1886, by M. D. Ball, United States Attorney for the district aforesaid, on behalf of the United States of America, against the schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, as forfeited to the use of the United States for the reasons and causes in said libel of information mentioned, and praying the usual process and monition of the said Court in that behalf to be made, and that all persons interested in the said schooner "Thornton," her tackle, apparel, boats, cargo, and furni-
" ture, &c., may be cited in general and special to answer the premises, and all proceedings being had, that the said schooner "Thornton," her tackle, apparel, boats, cargo, and furniture may, for the causes in the said libel of information mentioned, be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, to detain the same in your custody until the further order of the Court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said Court to be held in and for the District of Alaska, on the 4th October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honourable Lafayette Dawson, Judge of said Court, and the seal thereof affixed at the City of Sitka, in the District of Alaska, this 28th day of August, in the year of our Lord 1886; and of the Independence of the United States, the 111th.

[SEAL.] ANDREW T. LEWIS, *Clerk.*

On September 6, 1886, was filed the following affidavit:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

The United States of America v. *The Schooner "Thornton."*

UNITED STATES OF AMERICA, *District of Alaska, ss.*

C. A. Abbey, being duly sworn, deposes and says:

That he is, and at all times hereinmentioned was, a Captain in the United States Revenue Marine, and in command of the United States Revenue-cutter "Corwin."

That affiant and the following named officers of said "Corwin," are material and necessary witnesses for the United States in the above entitled action: J. C. Cantwell, Lieutenant; J. U. Rhodes, Lieutenant; J. H. Douglass, pilot.

That owing to scarcity of provisions and fuel upon said cutter "Corwin," the said "Corwin" and deponent and said witnesses will be obliged to and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than 100 miles from the place of trial of said action before the time of said trial.

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That Hans Guttormsen was master, and in possession of said schooner "Thornton" at the time of seizure thereof.

(Signed) C. A. ABBEY.

Subscribed and sworn to before me, this 6th day of September, 1886.

(Signed) ANDREW T. LEWIS, *Clerk.*

On the same day was entered the following order:

In the Matter of the United States v. *Schooner "Thornton," Case No. 50; Schooner "Carolina," Case No. 51; Schooner "Onward," Case No. 49; Schooner "San Diego," Case No. 52.*

In the above entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now on motion of M. D. Ball, United States District Attorney for Alaska, and Counsel for the United States herein, it is ordered that the depositions of the witnesses C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, C. T. Winslow, Albert Leaf, C. Wilhelm, Thos. Singleton, and T. Lorensen be taken before the Clerk of the said District Court on Tuesday, the 7th day of September, 1886, at 7 o'clock P. M., or as soon thereafter as the matter can be reached at the office of said Clerk at Sitka, Alaska; and if not completed
67 on said evening, then the taking of said depositions to be continued by said Clerk, from time to time, until completed. That notice of the time and place of taking said depositions be served by the Marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe, and Charles E. Raynor, and upon W. Clark, Esq., Attorney at Law, on or before the 7th September at 12 A. M., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open Court this 6th day of September, 1886, now at this time W. Clark, Esq., being present in Court, waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

The United States of America v. *The Schooner "Thornton."*

To Hans Guttormsen greeting: you are notified that by order of Lafayette Dawson, Judge of said District Court, the depositions of C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglas will be taken before the Clerk of said District Court at his office in Sitka in said district on Tuesday, the 7th September, 1886, at 7 o'clock P. M., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said Clerk from time to time until completed.

Dated the 7th September, 1886.

(Signed) ANDREW T. LEWIS, *Clerk.*

UNITED STATES OF AMERICA, *District of Alaska, ss.*

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within-named Hans Guttormsen, at Sitka, District of Alaska, by then and there personally delivering to said Hans Guttormsen a copy of said notice; and then and there gave him the privilege of being present at the taking of said depositions.

Dated the 9th September, 1886.

(Signed) BARTON ATKINS,
United States Marshal.

On the 10th September, 1886, were filed the following depositions:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

The United States v. *The Schooner "Thornton."—No. 50.*

Depositions of witnesses sworn and examined before me on the 7th day of September, 1886, at 7 o'clock P. M. of said day, and on the 8th and 9th September, 1886, thereafter, at the Clerk's Office of said Court in Sitka, District of Alaska, United States of America, by virtue and in pursuance of the order of the said Court, made and entered in the above entitled action on the 6th September, 1886, directing that the testimony and depositions of said witnesses be taken before me at said first-mentioned time and place, and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said District Court between the United States as plaintiff and the schooner "Thornton" as defendant, on behalf and at the instance of the said plaintiff the United States, and upon notice of the time and place of the taking of said depositions served upon Hans Guttormsen, the Captain of the said schooner, and in possession thereof at the time of seizure, and upon W. Clark, Esq., his Attorney, the owners thereof being unknown and without the jurisdiction of this Court.

Captain C. A. Abbey, being duly sworn, deposes and says:

Q. State your name and occupation.—A. Captain C. A. Abbey, in the United States Revenue Marine Service, at present in command of the United States Revenue steamer "Corwin," on special duty in Alaskan waters, for the protection of the Seal Islands and of the Government interests in Alaska generally.

68 Q. What were you doing and what occurred on the 1st day of August last in the line of your duty?—A. I was cruizing in Behring Sea about 70 miles south-southeast from St. George Island, in about latitude ——— and longitude ———. I found the four boats of the British steam-schooner "Thornton," of Victoria, British Columbia, engaged in killing fur-seal. Each boat had in her from three to eight freshly killed seal, arms, and ammunition, rowers, and hunters, who stated that they belonged to the said schooner "Thornton," and were engaged in taking or killing fur-seal. Some of them, if not all, were seen shooting at the fur-seal which were swimming in their neighbourhood. On this evidence, I caused the vessel to be seized by Lieutenant Cantwell, took her in tow, and proceeded with her to Oonalaska, where I placed the vessel, cargo, tackle, furniture, and appurtenances in charge of Deputy United States Marshal Isaac Anderson, of Oonalaska, the cargo of fur-seal skins being stored in "Kench," in one of the warehouses of the Alaska Commercial Company, and under seal. One boat of the "Thornton" was sent to Sitka by the schooner "San Diego," and placed in custody of the United States Marshal at Sitka. All of this property is now in the custody of the United States Marshal at Sitka, including her arms and ammunition, which I brought to Sitka on the "Corwin."

Q. Was this the vessel against which the libel of information is filed?—A. It is.

Q. Did this all occur within the waters of Alaska and the Territory of Alaska, and within the jurisdiction of this Court?—A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of 10 tons burden or over?—A. It did.

(Signed) C. A. ABBEY.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.] ANDREW T. LEWIS,
Clerk, United States District Court.

Lieutenant John C. Cantwell, being duly sworn, deposes and says:

Q. State your name, occupation, and age.—A. John C. Cantwell, Third Lieutenant United States Revenue Marine Service, at present on duty United States Revenue steamer "Corwin," and over the age of 21 years.

Q. Were you so *on the 1st day of August last?—A. I was.*

Q. State what occurred on that day in the line of your duty.—A. I saw a small boat on the port bow; we came up to her, and found she had about eight fur-seal aboard. The men in the boat were armed with breech-loading rifles. In answer to the Commanding Officer, the men admitted they were killing fur-seal. Shortly after we picked up a second boat, and then sighted the schooner "Thornton." There were dead seal in the second boat. I did not examine the other boats; I was sent on board the schooner, saw Hans Guttormsen apparently acting as captain, and Henry Norman as mate. I asked them what they were doing? The captain replied, "Catching seals." I signalled this to Captain Abbey, who directed me to seize her, which I did, and the "Corwin" took the schooner in tow. The fur-seal in the boats were bleeding, and must have been killed within a few hours.

Q. How many men were on board of the "Thornton" at the time of seizure?—A. About fifteen.

Q. Was this a reasonable number for ordinary purposes of commerce and navigation?—A. It was an unusually large number for the size of the vessel.

Q. Do you recognize this paper?—A. I do. It is the official inventory made by me of the furniture, tackle, and cargo of the schooner "Thornton" (inventory embraces the usual furniture, rigging, nautical instruments, boats and stores of a vessel of this class, with a cargo of 403 seal-skins, 3 seal-pup skins, and 1 hair seal-skin, and they are receipted for by I. Anderson, Deputy United States Marshal, Oonalaska, the 14th August, 1886); the item 403 seal-skins mentioned in the inventory are fur seal-skins: this inventory gives a full and correct list of all the furniture, tackle, and cargo of said vessel, with the exception of the following: arms and ammunition, octant, and one chronometer. There is one boat belonging to the "Thornton" that was sent down on the "San Diego" and included in the inventory of the "San Diego." The "Thornton" had four boats.

(Signed) JOHN C. CANTWELL,
3rd Lieutenant, United States Revenue Marine.

69 Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.] ANDREW T. LEWIS,
Clerk, United States District Court.

John U. Rhodes, being duly sworn, deposes and says:

Q. State your name, age, and occupation?—A. John U. Rhodes, over 21 years of age, and Lieutenant in the United States Revenue Marine, and attached to the Revenue steamer "Corwin," and was so on the 1st August, 1886.

Q. State what happened on the last-named day in connection with the schooner "Thornton"?—A. I was on the "Corwin" at the time the "Thornton" was seized on that day. We first picked up a boat bearing the name "Thornton;" it had about eight dead fur-seal in it, the men in the boat had breech-loading rifles: we afterwards picked up another boat, and then sighted the schooner "Thornton," and went on board, and was put in charge of her. We afterwards picked up two more boats; the men in the boats claimed that the boats belonged to the "Thornton," and were put on board of her. There were between fifteen and twenty dead fur-seal on deck and one hair-seal. These seal were most of them bleeding and evidently recently killed. The captain and several of the hunters said they had killed twenty-one, I think it was, fur-seals that day, and would have got more if they had had more daylight and if the cutter had not come up.

Q. Do you recognize these papers?—A. I do. This paper marked (Ex. "G") is the clearance paper of the schooner "Thornton" (this paper represents the British steam-schooner "Thornton," Hans Guttormsen, master, 22.30 tons, navigated with fifteen men, bound for the Pacific Ocean, Behring Sea, and Okhotsk Sea, on a hunting and fishing voyage, as having cleared from Victoria, British Columbia, the 15th May, 1886). This paper marked (Ex. "H") is her bill of health (issued same date and place with clearance). I found these papers in the schooner "Thornton" at the time of seizure, and then took possession of them.

Q. What was the list of arms and ammunition found aboard the schooner "Thornton" at the time of seizure?—A. Four rifles, 6 shot-guns, 867 shot-gun cartridges, 420 rifle-gun cartridges, 108 lbs. powder, 1 keg powder partly filled, 2 bags bullets, 11 bags buck-shot, 5 boxes wads, 3½ boxes primers.

Q. What has become of these arms and ammunition?—A. They were delivered to the United States Marshal at Sitka, and are now in his custody.

(Signed) JOHN U. RHODES,
Lieutenant, United States Revenue Marine.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to the deponent.

[SEAL.] ANDREW T. LEWIS,
Clerk, United States District Court.

John U. Rhodes, being duly sworn, deposes and says:

Q. State your name, age, and occupation?—A. John U. Rhodes, Lieutenant United States Revenue Marine, at present on duty on the United States Revenue steamer "Corwin," and over the age of 21 years.

Q. State what nautical instruments, if any, were seized on the schooner "Thornton" except such as are included in her general inventory?—A. One chronometer, No. 1374, made by Kessels, and one octant.

Q. What has become of this property?—A. I turned it over to the United States Marshal at Sitka, and it is now in his custody.

(Signed) JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.] ANDREW T. LEWIS,
Clerk, United States District Court.

J. H. Douglass, being duly sworn, deposes and says:

Q. State your name, age, and occupation?—A. J. H. Douglass, am over the age of 21 years, am a pilot in the Revenue Marine Service of the United States, and
70 have been so for the seven years last past. I am now and on the 1st August, 1886, was pilot on the Revenue steamer "Corwin."

Q. State what occurred on the last-named day in connection with the schooner "Thornton"?—A. We sighted a boat on our port bow and soon after saw another boat, steamed to the first boat and ordered her to come alongside, which she did. The name "Steamer Thornton" was on the stern of the boat. There were two or three men in the boat with arms, and six or eight dead fur-seal, which had the appearance of having been lately killed. I asked the men what luck they had had. One of them replied, "We have six or eight, but not as good as some days." We took possession of the boat and contents by order of Captain Abbey. We then picked up the second boat, finding it engaged in the same business, then we sighted a schooner drifting without sail or steam, which proved to be the steam-schooner "Thornton." On coming up with her she was seized by order of Captain Abbey and taken in tow. We then picked up two more boats belonging to the "Thornton," having dead fur seal on board. This was in Behring's Sea, about 65 miles south-east from St. George's Island, and about 500 or 600 miles to the eastward of the western boundary-line of Alaska Territory.

Q. State what experience you have had in the fur-sealing business, and your knowledge of the habits of the fur-seal?—A. I have been cruizing for more than fifteen years off and on in Alaskan waters, always as an officer or pilot, and have visited the Pribiloff Islands, St. Paul and St. George, several hundred times, and am perfectly familiar with the sealing business as conducted on those islands, and understand the migrating habits of the fur-seals. From about the 1st May to about the 1st July of each year the fur-seal is migrating north, and mostly through the Unimak and Akutan Passes to these islands for breeding purposes. They go to no other place in the known world except these islands and Copper Island for breeding purposes.

After the breeding season of about a month they begin to migrate south, and until November of each year are migrating south through Behring's Sea. During this season, from May till November, the fur-seal are plenty in the waters adjoining the Pribiloff Islands, and are migrating to and from these islands, and are at all times very plenty between Unimak Pass and said islands in a track about 30 miles wide, which seems to be their highway to and from said islands. The schooner "Thornton" and her boats when seized were directly on this track.

(Signed) J. H. DOUGLASS.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.] ANDREW T. LEWIS,
Clerk, United States District Court.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

The United States v. *The Schooner "Thornton."—No. 50.*

Whereas, on the 6th day of September, 1886, the said District Court duly made and entered in the journal of said Court an order in the above-entitled action, directing that the testimony and depositions of the witnesses: C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglass be taken before me, the Clerk of said Court, at the time or times and place, and upon such notice as was specified in said order.

Now, therefore, this is to certify:—That in pursuance of said order, on the 7th September, 1886, at 7 P. M., each and all of the above-named witnesses appeared before me at the Clerk's office of said Court at Sitka, District of Alaska, United States of America: that M. D. Ball, Esq., District Attorney of said Court and District, and W. H. Payson, Esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, Esq., then and there appeared on behalf of, and as Attorney and Proctor for the said schooner and her owners herein; and Hans Guttormsen then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th September, 1886, and completed the same on said last-named day. That the said parties by their said Attorneys and Proctors then and there appeared, and were present on each of said last-named days, and at all times during the taking of said depositions. That each of said witnesses was first duly cautioned and sworn by me, then and
71 there, that the evidence he should give in said action, should be the truth, the whole truth and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then and there read the same over to him; and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

In witness whereof I have hereunto set my hand and the seal of said District Court, this 9th day of September, 1886.

(Signed) ANDREW T. LEWIS,
Clerk, United States District Court in and for the District of Alaska, United States of America

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On the 20th day of September, 1886, was filed the following claim of Master for Owner:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

(In Admiralty.)

In the Matter of the Libel of Information against the Schooner "Thornton," her Tackle, Apparel, Furniture, and Cargo.—Claim of Master for Owner.

And now Hans Guttormsen, master of the schooner "Thornton" intervening for the interest of J. D. Warren of Victoria, British Columbia, the owner of the said schooner "Thornton," her tackle, apparel, furniture, and cargo, as set forth in the libel of information herein, appears before this honourable Court and makes claim to the said schooner "Thornton," her tackle, apparel, furniture, and cargo, as set forth in the said libel of information, and as the same are attached by the Marshal under process of this Court at the instance of M. D. Ball, Esq., United States District Attorney for the District of Alaska.

And the said Hans Guttormsen avers that the said J. D. Warren was in possession of the said schooner at the time of the attachment thereof.

And that the said J. D. Warren above named is the true and *bonâ fide* owner of the said schooner, her tackle, apparel, cargo and furniture as seized by the said Marshal as aforesaid and that no other person is the owner thereof. Wherefore he prays to defend accordingly.

(Signed) HANS GUTTORMSEN.

Subscribed and sworn to before me this 18th day of September, A. D. 1886.

[SEAL.] ANDREW T. LEWIS,
Clerk of the United States District Court for the District of Alaska.

W. CLARK AND D. A. DINGLEY,
Proctors for Claimant.

On the same day was filed the following amended libel of information:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

(August Special Term, 1886.)

To the Honourable LAFAYETTE DAWSON, *Judge of said District Court:*

The amended libel of information of M. D. Ball, Attorney for the United States, for the District of Alaska, who prosecutes on behalf of said United States and being present here in Court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:

That C. A. Abbey, an officer in the Revenue Marine Service of the United States, duly commissioned by the President of the United States, in command of the United States Revenue cutter "Corwin," and on special duty in the waters of the District of Alaska heretofore, to wit on the 1st day of August, 1886, within the limits of
73 Alaska Territory, and in the waters thereof, and within the Civil and Judicial District of Alaska, to wit—within the waters of that portion of Behring's Sea belonging to the United States and said District, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said Attorney. The said property is more particularly described as follows, to wit:

One schooner "Thornton" of Victoria, British Columbia, four boats with oars, sails, and gear; carpenter's and caulking tools and materials: five tons of coal, ten yards of canvas, clock, chronometer, nautical instruments, provisions, sails and running gear, ropes, twine, lamps, oil, casks, buckets, engine and gear, twenty sacks of salt, 403 fur-seal skins, one hair-seal skin, three pup-seal skins, four rifles, six shot guns, and arms and ammunition for same and all other property found upon or appurtenant to said schooner.

That said C. A. Abbey was then and there duly commissioned and authorized by the proper Department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:

That said vessel, her captain, officers and crew were then and there found engaged in killing fur-seals within the limits of Alaska Territory and within the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Oonalaska in said Territory, and delivered into the keeping of Isaac Anderson, a Deputy United States Marshal of this District, with the exception of the said arms and ammunition, which latter were brought into the port of Sitka in said District and turned over to the United States Marshal of this District and all of said property is now within the Judicial District of Alaska, United States of America.

And the said M. D. Ball, Attorney as aforesaid, further informs and alleges:

That on the 1st day of August, 1886, Henry Norman, and certain other persons whose names are to said United States Attorney unknown, who were then and there engaged on board of the said schooner "Thornton" as seamen and seal-hunters, did, under the direction and by the authority of Hans Guttormsen, then and there master of said schooner, engage in killing and did kill, in the Territory and District of Alaska, and in the waters thereof, to wit, twenty fur-seals, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 403 fur-seal skins, three pup-skins, one hair-seal skin, and other goods so seized on board of said schooner "Thornton" constituted the cargo of said schooner at the time of the killing of said fur-seals, and at the time of said seizure.

And said Attorney saith that all and singular the premises were and are true and within the Admiralty and Maritime Jurisdiction of the United States and of this Honourable Court, and that by reason thereof, and by force of the Statutes in such cases made and provided, the aforementioned schooner, being a vessel of over twenty tons burden, and her said tackle, apparel, boats, cargo and furniture, became and are forfeited to the use of the United States.

Wherefore the said Attorney prays that the usual process and monition of this Honourable Court issue in his behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process why said forfeiture should not be decreed; and that after due proceedings are had, all of said property be adjudged, decreed, and condemned as forfeited to the use of the United States; and for such other relief as may be proper in the premises.

Dated the 20th September, 1886.

(Signed) M. D. BALL,
United States District Attorney for the District of Alaska.

On the same day was filed the following demurrer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States v. *J. D. Warren and Schooner "Thornton."—Demurrer.*

The demurrer of J. D. Warreh, claimant of the property proceeded against in the above cause to the information filed herein.

1. The said claimant by protestation, not confessing all or any of the matters in said amended information contained to be true, demurs thereto and says that the said matters in manner and form, as the same are in the information stated and
73 set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.
2. The said claimant by protestation denies that this Court has jurisdiction to determine or try the question hereby put in issue.
3. And that the said claimant is not bound in law to answer the same.

Wherefore claimant prays that said information may be dismissed with costs.

(Signed) W. CLARK AND D. A. DINGLEY,
Proctors for Claimant.

Which demurrer was overruled by the Court, and on the same day was filed the following answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States v. *J. D. Warren and Schooner "Thornton."—Answer of Claimant.*

The answer of J. D. Warren, owner and claimant of the said schooner "Thornton," her tackle, apparel, cargo, and furniture, as the same are set forth in the information filed herein in behalf of the United States.

And now comes J. D. Warren, claimant as aforesaid and for answer to the said information against the said schooner "Thornton," her tackle, apparel, furniture and cargo, as set forth in said information says that the said schooner "Thornton," her tackle, apparel, furniture, and cargo as set forth in the information mentioned, did not nor did any part thereof become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore, the said claimant prays that said information be dismissed with costs of this claimant attached.

(Signed) W. CLARK AND D. A. DINGLEY,
Proctors for Claimant.

On the 22nd September, 1886, were filed the following exceptions to answer:

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

United States v. *The Schooner "Thornton."—No. 50.*

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:

1. Said answer is not properly or at all verified as required by Rule 27 of the United States Admiralty Rules;
2. Said answer is not full, explicit or distinct to each or any allegation of the libel herein, as required by said Rule;
3. Said answer does not deny or admit any of the allegations of fact in said libel, but merely denies a conclusion of law.

(Signed) M. D. BALL AND W. H. PAYSON,
Proctors for Libellant.

SEPTEMBER 21, 1886.

Which exceptions were sustained by the Court, and on the same day was filed the following amended answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States v. *J. D. Warren and Schooner "Thornton."—Amended Answer.*

To the Honourable LAFAYETTE DAWSON,
Judge of the United States District Court for the District of Alaska.

Hans Guttormsen, master of the schooner "Thornton," intervening for the interest of and in behalf of J. D. Warren, owner and claimant of said schooner "Thornton,"

her tackle, apparel, furniture and cargo for amended answer to the libel of information herein, against said schooner, her tackle, apparel, furniture, and cargo, alleges as follows:

1. That he denies each and every material allegation in said libel of information contained;

74 2. Denies that the said schooner "Thornton," her tackle, apparel, furniture, cargo, and the property appertaining thereto, as set forth and described in said libel of information or any part thereof became forfeited to the United States;

3. Denies that said schooner, her captain, officers, and crew, or any one of them were found engaged in killing fur-seal within the limits of Alaska Territory and within the waters thereof in violation of section 1956 of the Revised Statutes of the United States as set forth in said libel of information or at all;

4. Denies that they killed any number of fur-seal or other fur-bearing animals within the waters of Alaska or the Territory of Alaska or in any part thereof.

5. That all and singular the premises herein are true.

Wherefore said master prays that this Honourable Court will be pleased to pronounce against the libel herein and that the same may be dismissed with costs to the claimants to be taxed.

(Signed) W. CLARK AND D. A. DINGLEY,
Proctors for Claimant.

UNITED STATES, *District of Alaska, ss.*

Hans Guttormsen, being first duly sworn, says he is master of the schooner "Thornton," that he has heard read the foregoing answer and knows the contents thereof and that the same is true of his own personal knowledge.

(Signed) H. GUTTORMSEN.

Subscribed and sworn to before me this 22nd day of September, A. D. 1886.

(Signed) ANDREW T. LEWIS,
Clerk of the United States District Court for the District of Alaska.

On the 4th day of October, 1886, the motion cited p. 54 was returned with the following indorsement:

SITKA, *District of Alaska, ss.*

Be it remembered, that, in obedience to the annexed monition, I have attached the within-described property and now hold the same in my possession subject to the order of this Honourable Court;

And I have given due notice to all persons claiming said property to be and appear before this District Court on the 4th day of October, 1886, at 10 o'clock A. M., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claims and allegations in that behalf:

And I have caused said notice to be published, and the same has been published in the "Alaskan," a newspaper published at Sitka in said District, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until 4th day of October, 1886.

(Signed) BARTON ATKINS,
Marshal, District of Alaska.

SITKA, ALASKA, *October 4, 1886.*

On the same day was filed the following Decree:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

United States v. *The Schooner "Thornton."—No. 50.*

The Marshal having returned on the monition issued to him in the above entitled action that, in obedience thereto, he has attached the said schooner "Thornton," her tackle, apparel, boats, cargo, and furniture, and has given due notice to all persons claiming the same to appear before this Court on this 4th day of October, 1886, at 10 o'clock A. M., at the District of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf; and Hans Guttormsen, the captain of said vessel, having heretofore filed a claim to all of said property on behalf of J. D. Warren, of Victoria, British Columbia, the owner thereof,

and no other person having appeared, and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, Esq., and W. H. Payson, Esq., appearing as advocates for said libellant, and W. Clark as advocate for said claimant, and said cause having been submitted to the Court for decision, and due deliberation being had in the premises, it is now ordered, sentenced, and decreed as follows:

1. That all persons whatsoever other than said claimant be, and they are, hereby declared in contumacy and default.

2. That the said schooner "Thornton," her tackle, apparel, boats, and furniture, and her cargo of 403 fur-seal skins, and all other property found upon and appurtenant to said schooner, be, and are hereby, condemned as forfeited to the use of the United States.

3. That unless an appeal be taken to this Decree within the time limited and prescribed by law and the Rules of this Court, the usual writ of *renditioni exponas* be issued to the Marshal commanding him to sell all of the said property and bring the proceeds into this Court to be distributed according to law. Costs to be taxed are awarded against said claimant.

Dated October 4, 1886.

(Signed) LAFAYETTE DAWSON,
District Judge.

Done in open Court this 4th day of October, 1886, at Sitka, District of Alaska, United States of America.

(Signed) ——— ———, *Clerk.*

On the same day was filed the following motion to set aside Decree:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States v. *J. D. Warren and Schooner "Thornton."—Motion to set aside Decree.*

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and moves the Court to set aside the Decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said Decree.

(Signed) W. CLARK AND D. A. DINGLEY,
Proctors for Claimant.

Which motion was over-ruled by the Court, and on the same day was filed the following notice of appeal:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States v. *J. D. Warren and Schooner "Thornton."—Notice of Appeal.*

And now come W. Clark and D. A. Dingley, proctors for and in behalf of the claimant herein, and notifies this honourable Court that they hereby appeal from the Decree rendered herein to the Circuit Court having appellate jurisdiction over this district, and that said appeal is taken on questions of law and fact, and prays the Court for an order on its clerk to prepare a complete transcript of the record herein, as the law requires.

(Signed) W. CLARK AND D. A. DINGLEY,
Proctors for Claimant.

On the 9th day of February, 1887, was entered the following order:

In the Matter of the United States v. *Schooner "Onward," Case No. 49; Schooner "Thornton," Case No. 50; Schooner "Carolina," Case No. 51; Schooner "San Diego," Case No. 52; Arms and Ammunition Schooner "Sierra," No. 57; Arms and Ammunition Schooner "San Diego," No. 58.*

In the above causes, upon motion of the Attorney for the United States and argument of counsel for the United States, and for the interveners in said causes, and consideration by the Court, it is this day ordered that writs of *venditioni exponas* do issue from the clerk of said Court to the Marshal of said District, for the sale of the attached vessels, with their tackle, cargoes, and furniture, of whatever description, and of the arms and ammunition attached in said causes.

And as to the said attached vessels, that the sale of the same (except the schooner "San Diego," which shall be sold at Sitka) shall be made at Port Townsend, in the District of Washington Territory, and as to the seal-skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the District of California, and that sale of said schooner "San Diego," and all the other attached property be made at Sitka, in the District of Alaska. Thirty days' notice of such sale to be given at each of the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively.

And that said Marshal do have the moneys arising from such sales, together with the writ commanding the same, at a District Court of the United States for this, the said District of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said Court.

CLERK'S OFFICE, UNITED STATES DISTRICT COURT,
DISTRICT OF ALASKA,
Sitka, March 10, 1887.

I, Andrew T. Lewis, clerk of the said Court, do certify that the foregoing transcript of the record in the case of the United States *v.* the schooner "Thornton," her tackle, apparel, &c., on libel of information, pending in said Court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of such original, except the full text of the exhibits referred to in the testimony therein, the purport of which only is stated, and that the purport of said exhibits is correctly stated, as the same appears of record at my office and in my custody.

Witness my hand and the seal of said Court, this 10th day of March, 1887.

[SEAL.] ANDREW T. LEWIS, *Clerk.*

No. 44.

The Marquis of Salisbury to Sir L. West.

[Telegraphic.]

FOREIGN OFFICE, *August 2, 1887.*

I have received your despatch of the 12th ultimo.

Were judicial documents communicated without observation by the United States Government?

No. 45.

Sir L. West to the Marquis of Salisbury.—(Received by telegraph, August 4.)

WASHINGTON, *August 4, 1887.*

MY LORD: I have the honour to inform your Lordship that the judicial documents alluded to in your Lordship's telegram of the 2nd instant were, at my request, forwarded to me by the Secretary of State, for the information of Her Majesty's Government, and were unaccompanied by any observations.

I have reason to think that no step will be taken in the matter of the seizure of sealers in Behring's Sea until the case against the captain of the "Corwin," which will be tried at Boston, has been heard.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 46.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *August 10, 1887.*

SIR: I have to inform you that a telegram has been received from the Commander-in-chief of Her Majesty's naval forces in the Pacific, dated Victoria, British Columbia, on the 7th instant, from which it appears that an American Revenue vessel had seized three more British Columbian sealing schooners when a long distance from land,
77 and that they had been taken to Sitka. He further stated that several other vessels in sight from Sitka were being towed in.

It will be within your recollection that in the correspondence which has recently taken place in regard to the previous seizures of three British vessels by the United States Revenue cruizer "Corwin," Mr. Bayard stated in a note dated the 3rd February (a copy of which accompanied your despatch of the following day), that "without conclusion at this time of day of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

I request that you will at once communicate to the United States Government the nature of the information which has reached them in regard to these further seizures of British vessels by the United States authorities.

You will at the same time say that Her Majesty's Government had assumed, in view of the assurances conveyed to you in Mr. Bayard's note of the 3rd February last, that pending a conclusion of the discussion between the two Governments on the general question involved, no further similar seizures of British vessels would be made by order of the United States Government.

I am, &c.

(Signed) SALISBURY.

No. 47.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *August 10, 1887.*

SIR: I have to acknowledge the receipt of your despatch of the 12th ultimo, inclosing printed copies of the records in the United States District Court for the District of Alaska in the cases of the British Columbian sealing schooners "Onward," "Carolina," and "Thornton."

I should be glad if you would inform me whether the owners or masters of any of these vessels have entered an appeal against the Judgments delivered by the Court, and whether, if they have not already done so, such a course is still open to them.

It is also desirable that Her Majesty's Government should be furnished with a full Report of the proceedings at the trials of the masters, which resulted in their conviction, and sentence to imprisonment and fine.

I have further to request that you will endeavour to ascertain and to report to me when it is probable that the appeals referred to in your

despatches of the 2nd April, 1887, and of the 6th May, 1887, respectively, of the owners of the American ships which were seized on similar grounds, will come on for hearing, and whether any arrangement has been, or can now, in your opinion, advantageously be made between the owners of the British and American vessels on the one side and the Government of the United States on the other, that one of these cases should be regarded as a test case, by which, in so far as the American legal Tribunals are concerned, the remaining cases might be held to be concluded.

It must, however, be clearly understood that any such arrangement, if made, would only affect the legal remedies which were open to the masters and owners of these vessels in the American Courts, and would in no degree limit the right of Her Majesty's Government, after all such legal remedies were considered to be exhausted, to intervene through diplomatic channels and on international grounds on behalf of such masters or owners.

It is presumed that the records of the proceedings in the cases of the seizures of the British schooners which accompanied your despatch were communicated officially to Her Majesty's Legation, and, if so, I request that you will furnish me with a copy of the note by which they were accompanied.

I am, &c.

(Signed) SALISBURY.

No. 48.

Sir L. West to the Marquis of Salisbury.—(Received August 26.)

WASHINGTON, *August 15, 1887.*

MY LORD: In obedience to the instruction contained in your Lordship's despatch of the 10th instant, I informed the Secretary of
78 State that three British Columbian schooners had been seized in Behring's Sea by the United States cruizers a long distance from Sitka, and that several other vessels were in sight being towed in. I also intimated to Mr. Bayard that, in view of the assurances given in his note of the 3rd February last, Her Majesty's Government had assumed that, pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government. Copy of my note is herewith inclosed. I have likewise the honour to inclose to your Lordship copy of a note which I have received in reply to the above communication, in which Mr. Bayard states that he can discover no ground whatever, from the expressions contained in his note referred to, for the assumption by Her Majesty's Government that it contained any such assurances, but that he will ascertain without delay whether the circumstances attendant upon the cases of the seizures in question are the same as those which induced the Executive to direct the release of the vessels mentioned in his note of the 3rd February.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 48.]

Sir L. West to Mr. Bayard.

WASHINGTON, *August 11, 1887.*

SIR: I have the honour to inform you that Her Majesty's Government have received a telegram from the commander-in-chief of Her Majesty's naval forces in the Pacific, dated Victoria, British Columbia, 7th August, reporting the seizure by United States cruizers of three British Columbian sealing schooners in Behring's Sea, a long distance from Sitka, and that several other vessels were in sight being towed in. In conveying this information to you, I am requested at the same time by the Marquis of Salisbury to state that, in view of the assurances given in your note of the 3rd February last, Her Majesty's Government had assumed that pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 2 in No. 48.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, August 13, 1887.*

SIR: I have the honour to acknowledge the receipt of your note of the 11th instant received yesterday afternoon, informing me of a telegraphic communication from the Commander-in-chief of Her Majesty's naval forces in the Pacific, dated at Victoria, British Columbia, August 7th, reporting the seizure of three British Columbian sealing schooners "in Behring's Sea, a long distance from Sitka," and that "several other vessels were in sight being towed in."

The reference to my note to you of the 3rd February last, which you make under the instruction of the Marquis of Salisbury, has caused me to examine the expressions contained therein, and I can discover no ground whatever for the assumption by Her Majesty's Government, that it contained assurances "that, pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government."

Until your note of the 11th instant was received I had no information of the seizure of the sealing vessels therein referred to, and have no knowledge whatever of the circumstances under which such seizures have been made.

I shall at once endeavour to supply myself with the information necessary to enable me to reply to you more fully.

The cases of seizure referred to in my note of the 3rd February, 1887, had occurred during the previous August, and upon the basis of the information then obtained I wrote you as follows:

"In this connection I take occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of
79 all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

Having no reason to anticipate any other seizures, nothing was said in relation to the possibility of such an occurrence, nor do I find in our correspondence on the subject any grounds for such an understanding as you inform me had been assumed to exist by Her Britannic Majesty's Government.

A short time since, when you called upon me and personally obtained copies of the record of the judicial proceedings in the three cases of seizure in August last in Behring's Sea, nothing was said in relation to other cases. Whether the circumstances attendant upon the cases which you now report to me are the same as those which induced the Executive to direct the releases referred to remains hereafter to be ascertained, and this with as little delay as the circumstances will permit.

I have, &c.

(Signed) T. F. BAYARD.

No. 49.

Admiralty to Foreign Office.—(Received August 27.)

[Extract.]

ADMIRALTY, *August 24, 1887.*

I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the perusal of the Marquis of Salisbury, extract from a letter from the Commander-in-chief on the Pacific Station, dated the 5th August, reporting the seizure of a sealing-schooner, named the "Anna Beck," by an American Revenue vessel in Behring's Sea.

[Inclosure in No. 49.—Extract.]

Rear-Admiral Culme-Seymour to Admiralty.

"TRIUMPH," AT ESQUIMALT, *August 5, 1887.*

Since my return I hear that the "Anna Beck," a sealing schooner, has been seized by an American Revenue vessel in Behring's Sea—it is reported 60 miles north-east from St. George's Island; but no reliable information as to the spot has yet reached me. As soon as it does I will forward particulars.

No. 50.

Sir L. West to the Marquis of Salisbury.—(Received September 1.)

[Extract.]

WASHINGTON, *August 20, 1887.*

It would appear from Reports of Captain Shepard, of the United States Revenue cutter "Rush," that the "Sayward" was captured 50 miles and the "Dolphin" 40 miles from Cape Cheerful, while the "Grace" was seized 95 miles from Ounalaska.

Cape Cheerful does not appear on any Map or Chart, but is supposed to be the northernmost point of the Island of Ounalaska.

The Islands of St. George and St. Paul (Pribylov Islands) are distant 180 miles from Ounalaska, so that at the time of the seizure of the "Grace" that vessel would have been 85 miles distant from them.

To reach the breeding-grounds on the Islands of St. George and St. Paul, the seals pass regularly through the channel which separates the Island of Ounalaska from the Island of Akutan, and that which separates Akutan from the Island of Unimak, called respectively the Akutan and Unimak passes, and it is here that the sealers lay in wait for them on their passage.

It is maintained that the capture of seals in this manner is in violation of section 1956 of the Revised Statutes of the United States, and that ships so capturing them are within the limits of Alaska territory or in the waters thereof.

But, apart from the question of territorial limit and right to seize vessels in the open sea, it is argued by impartial persons that unless some arrangement is made for the protection of these valuable animals on their passage to the breeding-grounds, the genus, as in the case of beaver, will gradually become extinct.

It is a known fact that few, if any, seals pass outside the Island of Ounalaska to their breeding-grounds, which exist only on the Pribylov Islands, and that their passage is as regular as their breeding season.

No. 51.

Sir L. West to the Marquis of Salisbury.—(Received September 1.)

WASHINGTON, *August 22, 1887.*

MY LORD: Since writing my preceding despatch I have received privately from Mr. Bayard copies of the Reports of Captain Shepard, alluded to therein, respecting the seizure of the British vessels "Anna Beck," "W. P. Sayward," "Dolphin," and "Grace," copies of which I have the honour to inclose to your Lordship herewith.

The State Department is not in possession of any further information.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

P. S.—I have communicated copies of Captain Shepard's Reports to the Governor-General of Canada.

L. S. S. W.

[Inclosure 1 in No. 51.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT, *August 19, 1887.*

SIR: I have the honour to acknowledge the receipt of your letter of the 13th instant, in which you refer to information received through the British Minister as to the recent seizures by United States cruizers of three British Columbian sealing-schooners in Behring's Sea, and request such information as this Department possesses or can obtain from its Agents relative to said seizures; and, in reply thereto, I inclose herewith copies of the Reports of the Captain of the Revenue cutter "Rush," dated the 4th, 11th, and 18th ultimo, reporting the seizures of the British steam-schooner "Anna Beck" on the 2nd, the British steam-schooner "W. P. Sayward" on the 9th, the British steam-schooner "Dolphin" on the 12th, and the British steam-schooner "Grace" on the 17th ultimo.

Respectfully yours,

(Signed) C. S. FAIRCHILD, *Secretary.*

[Inclosure 2 in No. 51.]

Captain Shepard, U. S. R. M., to Mr. Fairchild.

UNITED STATES REVENUE MARINE STEAMER "RUSH,"
Ounalaska, A. T., July 4, 1887.

SIR: I have the honour to report to the Department the seizure on the 30th June of the schooner "Challenge" of Seattle, Washington Territory, H. B. Jones, master, and Albert Douglas, of Seattle, Washington Territory, President of the Douglas Fur Company, managing owner, for violation of section 1961, Revised Statutes,—the having skins of female fur-seal and skins of unborn seal on board, which latter the captain and mate admitted were taken from the female seal killed by themselves or the crew of the vessel.

The "Challenge" when found was anchored at Akoutan Island, Alaska: I took her in tow of the "Rush," and proceeded to Ounalaska and delivered her skins, 151 in number, to the United States Deputy Marshal at this place, and have taken her arms and ammunition on board the "Rush" for safe keeping.

The crew, consisting of fifteen men all told, were shipped at Port Townsend, Washington Territory, by H. Bash, United States Shipping Commissioner, and were found present, excepting Wm. Couratz, of Germany, seaman, whom Captain Jones reports was taken sick and sent ashore at Goose Island, British Columbia, and Hines, an Indian of British Columbia, was shipped in his stead at that place.

On the 2nd July, in latitude 54° 58′ north and longitude 167° 26′ west, Cape Cheerful, Ounalaska Island, bearing south-east ¼ east, 66 miles, I boarded and exam-
81 ined the British steam-schooner "Anna Beck," of Victoria, British Columbia, Louis Olsen, master, Joe Bosquit, of Victoria, British Columbia, managing owner, on a sealing voyage, and having about 334 seal-skins on board, nineteen of

which the captain admitted were taken in Behring's Sea. His boats had recently been taken out of the water, and considerable fresh seal blood and gurry were found on deck, indicating that seal had been skinned and dressed on board that day. I seized the vessel for violation of section 1956, Revised Statutes, took in tow, and proceeded to Ounalaska. This vessel was seen on the 30th June, in nearly the same position as when we found her, by Captain Aage, of the steamer "Dora," with several boats out hunting seal.

I found on board a crew of nineteen men all told (seven white and twelve Indians), and the captain reported that on the 30th June two boats containing two Indians each were lost in the fog and could not be found, in addition to the above number.

I have delivered the "Anna Beck," with outfit and 334 seal-skins, to the United States Deputy Marshal at Ounalaska. No arms or ammunition were found on board. As the officers of these vessels have to be taken before the United States District Court at Sitka for trial, to which place there is no established mode of conveyance from here, I have placed the officers and crews of both vessels on board the schooner "Challenge" and dispatched Benjamin Lorenzen, one of the crew of this vessel, duly qualified as a Deputy United States Marshal, in charge, to Sitka, with instructions on his arrival at that place to deliver the vessel, captains, and mates to the United States Marshal, and to set the crews at liberty, Lorenzen to remain at Sitka until the arrival of the "Rush" at the end of the season.

I am, &c.

(Signed) L. G. SHEPARD.

[Inclosure 3 in No. 51.]

Captain Shepard, U. S. R. M., to Mr. Fairchild.

UNITED STATES REVENUE MARINE STEAMER "RUSH,"
Ounalaska, Alaska, July 11, 1887.

SIR: I have the honour to inform the Department that on the 9th July in the Behring's Sea, latitude 54° 43′ north, longitude 167° 51′ west, Cape Cheerful, Ounalaska Island, bearing south-east, true 59 miles distant, I boarded and examined the British schooner "W. P. Sayward," 59.79 tons register, of Victoria, British Columbia, Geo. R. Ferry, master, and W. D. Warren, of Victoria, British Columbia, managing owner, and found her to be on a sealing voyage—had been four days in the Behring's Sea.

The captain reported 485 seal-skins on board, sixty-four of which were taken in the Behring's Sea. Found the vessel under short sail, and one canoe and two Indians out hunting seal.

Her crew consisted of six white men all told, and seventeen Indians from British Columbia, and two Indians belonging to the crew of the British schooner "Anna Beck," who had lost that vessel in a fog. I took charge of the vessel's papers and seized her for violation of section 1956, Revised Statutes; took her in tow and proceeded to Ounalaska, arriving at midnight.

I have delivered the 485 seal-skins found on board to the United States Deputy Marshal at this place, and will send the vessel and her crew to Sitka, Alaska, in charge of one of the crew of this vessel duly qualified as a United States Deputy Marshal, with instructions to deliver the vessel with her outfit, the captain and mate, to the United States Marshal at Sitka on arrival at that port, and to set the crew at liberty.

I am, &c.

(Signed) L. G. SHEPARD.

[Inclosure 4 in No. 51.]

Captain Shepard, U. S. R. M., to Mr. Fairchild.

UNITED STATES REVENUE MARINE STEAMER "RUSH,"
Ounalaska, Alaska, July 18, 1887.

SIR: I have the honour to inform the Department that on the 12th July in the Behring's Sea, latitude 54° 38′ north, longitude 167° 30′ west, Cape Cheerful, Ounalaska Island, bearing south-east ¼ south, 40 miles distant, I boarded and examined the British steam-schooner "Dolphin," 60 $\frac{18}{100}$ tons register, of Victoria, British Columbia, J. D. Warren, master and managing owner, and found her to be on a sealing voyage. The vessel had been three days in the Behring's Sea, and had 618 seal-skins on board. Ten canoes and one boat were out hunting seal at the time. From the canoes twelve or more dead seal were taken on board the schooner while we were near her, and three skins from seal recently killed were found in the

boat. Seized the vessel for violation of section 1956, Revised Statutes, and transferred her arms and ammunition on board the "Rush," viz., 4 breech-loading rifles, 26 breech-loading shot guns, 10 muzzle-loading shot guns, 1 bomb gun, 4 revolvers, 3,404 rounds ammunition for breech-loading rifles, 250 rounds ammunition for shot guns, 4 kegs powder, 50 lbs. shot and other small ammunition. Seized the 4 breech-loading rifles and ammunition for same for violation of section 1955, Revised Statutes, and section 4, Executive Order No. 53, dated the 4th May, 1887. I placed Lieutenant Dunwoody in charge, with instructions to take her into Ounalaska, where she arrived the following day. The crew consisted of seven white men and twenty-six Indians from British Columbia.

On the 17th July, in the Behring's Sea, latitude 55° 3′ north, longitude 168° 40′ west, Cape Cheerful, Ounalaska Island, bearing south-east ¼ east, 96 miles distant, I boarded and examined the British steam-schooner "Grace," 76$\frac{87}{100}$ tons register, of Victoria, British Columbia, William Petit, master, and J. D. Warren, of Victoria, British Columbia, managing owner, and found her to be on a sealing voyage; had been ten days in the Behring's Sea, and had 769 seal-skins on board. When boarded she had twelve canoes and one boat out hunting seal. Saw one seal shot and taken into the boat while we were near her. Counted twelve seals taken on board the schooner from one canoe, and all the canoes contained more or less seals recently killed. The captain reported taking ninety seals during the day and 150 the day previous. Seized the vessel for violation of section 1956, Revised Statutes, and two breech-loading rifles and ammunition for same; for violation of section 1955, Revised Statutes, and section 4, Executive Order No. 53, dated the 4th May, 1887.

Her crew consisted of 6 white men, 24 Indians, and 1 Chinaman. Placed Lieutenant Benham in charge, and after waiting seven hours for her canoes to return—some of which had been a long distance from the vessel—took her in tow and proceeded to Ounalaska, arriving at 9.30 A. M. I have delivered the seal-skins from these vessels to the United States Deputy Marshal at this place, and will send the vessels in charge of men from this vessel duly qualified as United States Deputy Marshals to Sitka, to be delivered to the United States Marshal for the district of Alaska.

By request of Captain J. D. Warren, of the "Dolphin," managing owner of the schooner "Anna Beck" (seized the 2nd July, as previously reported), I will send her to Sitka in like manner.

Also on the 16th July, in the Behring's Sea, in latitude 55° 46′ north, longitude 170° 38′ west, Delnoi Point, St. George's Island, bearing north 30° east, 68 miles distant, I boarded and examined the schooner "Lily L.," 63$\frac{48}{100}$ tons register, of San Francisco, California, J. W. Todd, master, and C. D. Ladd, of San Francisco, managing owner, and found her to be on a sealing voyage. Had three boats out at the time, one of which on returning to the vessel contained two seal recently killed. Captain Todd and Mr. Ladd, representing the owner, admitted they came into these waters for the purpose, and had taken seal in the Behring's Sea, and claimed a right to do so anywhere outside the 9-mile limit from the shore.

I seized the vessel for violation of section 1956, Revised Statutes. There being only two commissioned officers on board this vessel, I placed Boatswain Winslow on board the schooner to represent the United States, and instructed her captain to take her into Ounalaska, which he agreed to do, there being too much sea running at the time to undertake to tow her to that place.

On her arrival I will make further report to the Department.

I am, &c. (Signed) L. G. SHEPARD.

No. 52.

Admiralty to Foreign Office.—(Received September 7.)

ADMIRALTY, *September 5, 1887.*

SIR: I am commanded by my Lords Commissioners of the Admiralty to transmit to you herewith, for the perusal of the Marquis of Salisbury, the accompanying copy of a letter of the 9th August from Rear-
83 Admiral Sir M. Culme-Seymour, with its inclosures, respecting the seizure of the British Columbian sealing-schooners "Anna Beck" and "W. P. Sayward," by an American Revenue steamer in the Behring's Sea.

I am to request that these documents may be forwarded to the Colonial Office, with a request that they may eventually be returned to this Department.

I am, &c. (Signed) R. D. AWDRY.

[Inclosure 1 in No. 52.]

Rear-Admiral Seymour to Admiralty.

"TRIUMPH," AT ESQUIMALT, *August 9, 1887.*

SIR: In confirmation of my telegram of the 6th instant, I have the honour to report the British Columbian sealing-schooners "Anna Beck," "Dolphin," and "W. P. Sayward" were seized in the Behring's Sea, between the 2nd and 12th July last, by the American Revenue steamer "Rush," and were towed to Ounalaska.

Mr. Andrew Laing, mate and part owner of the "W. P. Sayward," came down here and returns to-day to Sitka. He has made the following statement to me:

"The 'W. P. Sayward,' of Victoria, entered Behring's Sea on the 2d July, having on board 479 skins, procured off the west coast of Vancouver Island, &c. On the 9th she was seized by the 'Rush' about 50 miles to the northward and westward of Ounalaska, and was towed to Ounalaska, which took twelve hours. The skins on board were put into a lighter and taken to the Alaska Commercial Company's store. A quartermaster was put on board and the schooner sent to Sitka, the captain and myself being brought before Judge Dawson and bound over to appear on the 22nd August to answer a charge of 'killing seals in American waters.'

"No seals whatever had been taken since we entered Behring's Sea."

I am informed that as the "Olympian," an American excursion steamer, was leaving Sitka, she saw a steamer coming in with several schooners in tow.

I inclose a copy of the indictment against the "W. P. Sayward," a copy of the declaration made by Mr. Andrew Laing before a Notary Public at Victoria, and also a cutting from the Victoria "Daily Colonist."

I have, &c.

(Signed) M. CULME-SEYMOUR.

[Inclosure 2 in No. 52.]

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.

United States v. *Geo. R. Ferry and A. Laing.—Information.*

DISTRICT OF ALASKA, *ss.*

George R. Ferry and A. Laing are accused by M. D. Ball, United States District Attorney for Alaska, by this information, of the crime of killing fur seals within the waters of Alaska Territory, committed as follows:

The said George R. Ferry and A. Laing, on the 8th day of July A. D. 1887, in the District of Alaska and within the jurisdiction of this Court, to wit, in Behring's Sea, within the waters of Alaska Territory, did kill ten fur seals, contrary to the Statutes of the United States in such case made and provided, and against the peace and dignity of the United States of America.

Dated at Sitka the 23rd day of July, 1887.

I, M. D. Ball, United States District Attorney for Alaska, being duly sworn, say the within information is true, as I verily believe.

(Signed) M. C. D. BALL.

Subscribed and sworn to before me, this 23rd day of July A. D. 1887.

(Signed) H. E. HAYDON, *Clerk.*
By A. A. MEYER, *Deputy Clerk.*

I certify that the within is a true copy of the information filed in the cause.

(Signed) H. E. HAYDON, *Clerk.*
By A. A. MEYER, *Deputy Clerk.*

84 Personally appeared before me, Montague W. Tyrwhitt Drake, Notary Public, duly authorized, admitted, and sworn, residing and practising in Victoria, British Columbia, Andrew Laing, mate of the British schooner "W. P. Sayward," who states the above-written information was served upon him by Mr. M. D. Ball on the 23rd July, 1887.

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

[Inclosure 3 in No. 52.]

Declaration.

I, Andrew Laing, of Victoria, mate of the British schooner "W. P. Sayward," do solemnly and sincerely declare that I left Victoria, British Columbia, in the schooner "W. P. Sayward" on the 16th day of *May, 1887, bound* on a sealing voyage, with a

crew of seven men and sixteen Indian hunters with eight canoes. We commenced sealing off Cape Scott, on the north of Vancouver Island, and killed 479 fur-seals in the Pacific Ocean, and entered the Behring's Sea on the 2nd July, 1887, passing between Umnack Island and the Island of the Four Mountains. The weather was very thick and foggy, and we did no sealing in Behring's Sea in consequence.

On the 9th July we were captured by the United States steamer "Richard Rush," being then from 30 to 40 miles off the nearest land.

We were taken in tow to Ounalaska, where we arrived on the 10th July, and they laid us alongside the steamer "St. Paul," belonging to the Alaska Commercial Company. They removed the seal-skins and took them ashore to the wharf and put them in the Company's warehouse, and they resalted the skins with salt taken from our vessel. They put an officer from the "Rush" on board and towed us out to sea and told us to go to Sitka. We arrived there on the 22nd July, and on the next day an investigation was held before Judge Dawson, who bound us over to appear on the 22nd August for trial. The vessel was left in charge of the United States officers, and we were only allowed to remove our clothing. The Indians were left to find their way home as they could; they were about 700 miles from their villages. I further say that when we were taken I spoke to the Captain of the "Rush" and told him we had not taken a seal in Behring's Sea; he replied: "I am sorry for you; I have to obey orders, and take everything I come across in Behring's Sea." And I make this solemn declaration by virtue of the Act passed in the thirty-seventh year of Her Majesty's reign, entituled, "An Act for the Suppression of Voluntary and Extra-Judicial Oaths."

(Signed) A. LAING.

Taken and declared before me at Victoria, this 8th day of August, 1887.

(Signed) M. W. TYRWHITT DRAKE,
Notary Public.

[Inclosure 4 in No. 52.]

Extract from the "Victoria Daily Colonist" of August 6, 1887.

SEALERS SEIZED.—ANOTHER PIRATICAL ACT BY THE AMERICAN REVENUE CUTTERS.—The "Olympian," which arrived from Sitka yesterday, brought the startling news that another lot of British and American schooners had been captured by the Revenue cutter "Rush," and taken to Sitka, and that as the steamer was leaving the Revenue cutter again hove in sight, having a number of schooners in tow. Those in Sitka are the Victoria schooners "Dolphin," "Anna Beck," "Grace," "W. P. Sayward," and the American schooner "Challenger," of Seattle. With the schooners seized last year this makes seven British vessels now in charge of the Alaskan authorities, and they will, no doubt, be added to, as it seems the intention of the Americans to seize every schooner that they can secure anywhere within the waters of Behring's Sea.

It was not thought probable that such measures would have been taken in the face of information received from Washington and Ottawa; however, a lack of diplomacy or of energy seems to have prevailed, and no decisive answer was given to the official queries made to the United States authorities in regard to the programme they purposed following during the present season.

The following statements of several of the captured sealers is taken from the "Alaskan" of the 30th July:

Captain Olsen, of the steam-schooner "Anna Beck," stated:

"I left Victoria on the 7th February last, clearing at the Custom-house for
85 the purpose of a sealing and fishing trip to the west coast of Vancouver Island, the North Pacific Ocean, and the Behring's Sea.

"At the time the papers were issued by Mr. A. R. Milne, Collector of Customs, he made no observation about my vessel fishing in Behring's Sea; neither did I say any thing to him. I supposed, from the fact that the papers were issued giving me such permission, there was no reason why I should not fish in Behring's Sea, and had I anticipated that there would be any trouble I would not have started on a voyage for such a purpose.

"It was the common talk amongst the people of Victoria that we were perfectly safe in fishing, as the American Government would not make any seizures this season. I don't understand why my vessel was seized, as personally I was not engaged in catching seals. I purchase the seals from the Indians for the owners of the schooner, and I have no control whatever on the natives after they leave the vessel in their own canoes. I am not responsible if they catch seals after they have left the schooner's side; they can come and go when they please."

George R. Ferry, the Captain, A. Laing, the mate and part owner of the British schooner "W. P. Sayward," and Michael Keefe, mate of the "Anna Beck," said:

"We have heard read the statement of Captain Olsen, and agree with it in every particular."

"Michael Keefe: 'It is certainly a strange thing for the Custom-house at Victoria to have issued papers to us permitting fishing in Behring's Sea. If it was not legal, why should the Collector have cleared the vessel? The general idea of sailors is that no Custom-house will issue papers to any vessel to go and do an illegal act.'"

"Captain H. B. Jones, of the American schooner 'Challenger:'—'I left Seattle on the 15th April last, clearing at Port Townsend at the Custom-house for a hunting and walrus trip to the North Pacific and Arctic Oceans. I sealed up the coast 30 or 40 miles from shore as far north as the Aleutian Islands. I have never fished for seals in Behring's Sea. My schooner was seized in Akutan Harbour, whither I proceeded for the purpose of cleaning the bottom of the vessel and taking in a supply of water. The harbour is on Akutan Island, situated nearer the Pacific Ocean than the Behring's Sea. There are two passages between the North Pacific Ocean and the Behring's Sea at that point, one being through Akum Pass and the other through Unimak Pass. The Akum Pass being full of reefs and the Unimak Pass being comparatively safe I chose the latter, intending to clean my vessel and take in a supply of water. When anchored there I had not quite decided whether to come back in the Pacific Ocean or to keep on north, bound for the Arctic Ocean, my destination. The charge against me is of catching seals in Alaskan waters, that is, within 3 leagues of shore. Any one who knows anything of sealing is aware that such a charge is ridiculous, as we never look for seals within 20 miles of shore. They are caught all the way from between 20 and 150 miles of the land. The seals we packed up on our vessel were shot between Cape Flattery and Saunakh, situated 40 miles south and east of Unimak Island. All this territory lies within the North Pacific Ocean."

What makes the present seizures more inexplicable is the fact that the British schooners seized last year were ordered to be released by Attorney-General Garland, as is shown by the following copies of the orders in the possession of Carne and Munsie, of this city:

[Copy of Telegram.]

"WASHINGTON, D. C., *January 26, 1887.*

"To Judge LAFAYETTE DAWSON and
"Mr. D. BALL, *District Attorney, Sitka, Alaska:*

"I am directed by the President to instruct you to discontinue all further proceedings in the matter of the seizure of the British vessels 'Caroline,' 'Onward,' and 'Thornton,' and discharge all vessels now held under such seizure, and release all persons that may be under arrest in connection therewith.

(Signed) "A. H. GARLAND, *Attorney-General.*"

[Copy of Order.]

"To BARTON ATKINS,
"*United States Marshal for the District of Alaska.*

"You are hereby directed to release the vessels 'Carolina,' 'Onward,' 'Thornton,' and 'San Diego,' which were seized in Behring's Sea for violation of section 1956, United States Statutes, together with their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels.

"This 19th day of February, 1887.

(Signed) "LAFAYETTE DAWSON,
"*District Judge, District of Alaska.*"

It would appear from the above that the United States had given up the foolish contention of possessing the control over the high seas. The following letter was received by Mr. Munsie from the Deputy Minister of Fisheries in reply to a letter:

"OTTAWA, *April 2, 1887.*

"SIR: Having reference to your inquiry on the subject of claims for indemnity on the part of the owners of the Canadian sealing-vessels seized in Behring's Sea by the United States Revenue cutter 'Corwin,' who have been arrested and released; also that the conclusion of any questions involved is reserved for the present; and to inform you that the Government has forwarded to the Home Government the details of your claim to be indemnified for the loss consequent upon the seizure of your vessels.

"I am, *&c.*

(Signed) "JOHN TILTON,
"*Deputy Minister of Fisheries.*"

Again, in answer to another letter, Mr. Munsie received the following reply:

"OTTAWA, *July 26, 1887.*

"DEAR SIRS: I have to acknowledge the receipt of your letter of the 19th instant, addressed to the Minister of Marine and Fisheries, in which you state, 'We have not received a single word from the United States Government about the "release of the vessels,"' referring, of course, to those seized last season.

"On the 2nd April last I communicated to you the decision of the President of the United States, in so far as releasing the vessels, &c., which letter you acknowledged.

"Have you made any application for the surrender of the vessels, or have you reason to suppose the United States Government would communicate the action to you by other means than the ordinary official channel?

"This Department lost no time in communicating the decision in question to you, with the expectation that you would at once take steps to regain possession of the vessels.

"I am, &c. (Signed) "JOHN TILTON,
"*Deputy Minister of Fisheries.*"

From the above official orders of the American authorities and the correspondence of the Dominion Government, sealers here were quite natural in believing that no further seizures would be made during the present season. However, the reverse is the case, and the American authorities have evidently fully prepared in order to do as much injury as possible to the sealing interests outside those controlled by the Alaska Commercial Company.

British and American sealers have fared alike. The latter probably the worst. Owners of vessels here are naturally indignant at the turn of affairs, and think that more definite information should have been given them before their vessels sailed as to the intentions of the Americans. Now that they are seized they consider the Imperial authorities should move at once in the matter, and demand instant redress from the United States for a breach of international law, and for the damages sustained by British subjects while legally fishing on the high seas. They are beginning to wonder if, indeed, England is mistress of the seas when such high-handed piratical acts as those perpetrated last year, and again repeated this, are allowed to occur without some protection being given to British subjects or redress secured for damage done to property and interests at the hands of Americans.

From the "Alaskan" is also gathered the following in regard to the disposition of this and last year's seizures:

"Marshal Atkins has been notified by Deputy-Marshal Anderson of Ounalaska, that the Commander of the steamer 'Rush' has delivered into his custody 964 fur seal-skins seized from the different prize vessels, the American schooner 'Challenger,' and the British schooners 'W. P. Sayward' and 'Anna Beck.' All the above-mentioned seal-skins were packed and salted in a kinch in one of the Alaska Commercial Company's warehouses, awaiting further instruction from the Marshal.

87 "The 'Anna Beck' has been dismantled and a complete inventory taken of everything on board.

"The 2,082 seal-skins, the result of last year's seizures, were shipped consigned to the Marshal on the Alaska Commercial Company's steamer 'Dora,' which left Ounalaska on the 8th July bound to San Francisco.

"Nineteen Indians and three sailors, belonging to the 'W. P. Sayward,' and two of the 'Challenger's' crew, left Sitka in the early part of the week on board several canoes and one boat, *en route* for Victoria and Seattle. They took with them a large supply of provisions furnished by the commander of the 'Sayward.'

"Marshal Atkins has received advices from the Deputy-Marshal at Ounalaska under a recent date, stating that the three British schooners seized last August in the Behring's Sea and now lying at Ounalaska are in good condition, every care having been taken to protect them from injury. One of the vessels, which was in a leaky condition when first captured, was beached in order to save continuous pumping.

"In the District Court on Tuesday morning, H. B. Jones, captain, and Carl Erickson, mate of the schooner 'Challenger,' Louis Olsen, captain, and Michael Keefe, mate of the steam schooner 'Anna Beck,' and George R. Ferry, captain of the schooner 'W. P. Sayward,' appeared before Judge Dawson and made an application that they be permitted to surrender their bonds on the ground that they were devoid of the funds necessary for their subsistence. The Court granted the application, and ordered that the defendants be placed in the custody of the United States Marshal.

"The arms and ammunition seized on the schooners 'City of San Diego' and 'Sierra'—comprising in all nine rifles and guns and about 1,400 cartridges—will be sold by auction in Sitka on Monday, the 8th proximo, by the Marshal. The seized arms and ammunition taken from the schooners 'San Diego,' 'Thornton,' and 'Onward,'—comprising some fifty rifles, breech-loading guns and rifles, and several thousand rounds of ammunition,—will be offered for sale at Juneau as soon as the *necessary instructions* are received from Washington."

BAYARD'S OPINION.

following telegram is another unofficial announcement, and seems to be rather harmony with the official acts of the commanders of the Revenue cutters:

"WASHINGTON, *July 20.*

cretary Bayard, when he was shown to-day a despatch from Ottawa, stating the Dominion Government is protesting against the discourtesy shown by the l States authorities in ignoring its demand for reparation for the seizure and ion of the British Columbia sealers seized in Behring's Sea last year,' said:—'In it place, no demand was ever made to our Government by any body, either for ease of the vessels in question or for damages for their detention; and, in the place, if any such demand had been made, it could not have come by any ility from the Dominion Government, with which we have absolutely no diplo- relations whatsoever. The vessels in question were released upon representa- f the British Government that they were British vessels. They were released, e our right to hold them was deemed too doubtful to be enforced. Our Gov- it did what it believed to be right in the matter, without constraint from any r. The probability is that the "Anna Beck," alleged to be a British steam er from Victoria, the arrest of which by the Revenue cutter "Rush" for alleged on of our Alaska Revenue Laws was reported yesterday, will be released the ay if the facts are as alleged. The claim that Behring's Sea is a *mare clausum* hich the seizure of foreign vessels for violating our Revenue Laws proceeds to be untenable. We contended that it was not when Russia owned all the ry on both sides of it. Now that we own half and Russia half, it seems im- e to maintain the *mare clausum* theory.'"

t course of action will be followed by the people here is not yet determined, ne steps should be taken by the Local and Civic Governments in order to the deep feeling of indignation entertained against the repeated acts of law- s on the part of the American authorities, and their regret that better pro- is not afforded our fishing interests.

ing, mate of the "W. P. Sayward," arrived down from Nanaimo last evening, left the "Idaho" at that point. He corroborates the fact that the "Rush" tering Sitka as the steamer left, having in charge a number of schooners, the of which were unknown. The Americans evidently intend to make a clean of the schooners sealing north this season. Portions of the crews of the schooners are on the "Idaho" and will arrive over from Port Townsend to-day. A number of sailors and Indians have started for Victoria in boats.

It was reported that Captain Miner, of the schooner "Penelope," had over- powered the men put on his schooner as a prize crew, and was now on his way oria with his unwilling passengers.

No. 53.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *September 10, 1887.*

: By a despatch of the 30th October last the late Earl of Iddes- instructed you to call the attention of the United States Secre- of State to the circumstances of the seizure in Behring's Sea, by merican cruizer "Corwin," of some British Canadian vessels; and ordship directed you to state to Mr. Secretary Bayard that Her sty's Government felt sure that if the proceedings which were ted to have taken place in the United States District Court were ctly described, the United States Government would admit their lity, and would cause reasonable reparation to be made to the sh subjects for the wrongs to which they had been subjected and ne losses which they had sustained.

a previous despatch of the 9th September you had been desired k to be furnished with any particulars which the United States rnment might possess relative to the seizures in question; and on 0th October you were instructed to enter a protest on behalf of Majesty's Government, and reserve for consideration hereafter all s to compensation.

Nearly four months having elapsed without any definite information being furnished by the United States Government as to the grounds of the seizures, my predecessor instructed you, on the 8th January last, to express to Mr. Bayard the concern of Her Majesty's Government at the delay, and to urge the immediate attention of the United States Government to the action of the American authorities in their treatment of these vessels and of their masters and crews.

On the 3rd February Mr. Bayard informed you that the record of the judicial proceedings which he had called for was shortly expected to reach Washington, and that, without conclusion at that time of any questions which might be found to be involved in these cases of seizures, orders had been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

On the 4th April, under instructions from me, you inquired of Mr. Bayard, in view of the approaching fishing season in Behring's Sea, whether the owners of British vessels might rely when not near land on being unmolested by the cruizers of the United States, and you again asked when the record of the judicial proceedings might be expected. Mr. Bayard informed you, in reply (12th April), that the papers referred to had reached him and were being examined; that there had been unavoidable delay in framing appropriate Regulations and issuing orders to the United States vessels to police the Alaskan waters; that the Revised Statutes relating to Alaska, Sections 1956 and 1971, contain the Laws of the United States in relation to the matter; and that the Regulations were being considered, and he would inform you at the earliest day possible what had been decided, so that British and other vessels might govern themselves accordingly.

In view of the statements made by Mr. Bayard in his note of the 3rd February, to which I have referred above, Her Majesty's Government assumed that, pending a conclusion of the discussion between the two Governments on the general question involved, no further similar seizures of British vessels would be made by order of the United States Government. They learn, however, from the contents of Mr. Bayard's note of the 13th August last, inclosed in your despatch of the 15th August, that such was not the meaning which he intended should be attached to his communication of the 3rd February; and they deeply regret to find a proof of their misinterpretation of the intentions of the United States Government from an announcement recently received from the Commander-in-chief of Her Majesty's naval forces in the Pacific, that several more British vessels engaged in seal-hunting in Behring's Sea have been seized when a long distance from land by an American Revenue vessel.

Her Majesty's Government have carefully considered the transcript of record of the judicial proceedings in the United States District Court in the several cases of the schooners "Carolina," "Onward," and
89 "Thornton," which were communicated to you in July, and were transmitted to me in your despatch of the 12th of that month, and they cannot find in them any justification for the condemnation of those vessels.

The libels of information allege that they were seized for killing fur-seal within the limits of Alaska Territory, and in the waters thereof, in violation of Section 1956 of the Revised Statutes of the United States; and the United States Naval Commander Abbey certainly affirmed that the vessels were seized within the waters of Alaska and the Territory of Alaska; but according to his own evidence they were

seized 75, 115, and 70 miles respectively south-south-east of St. George's Island.

It is not disputed, therefore, that the seizures in question were effected at a distance from land far in excess of the limit of maritime jurisdiction which any nation can claim by international law, and it is hardly necessary to add that such limit cannot be enlarged by any municipal law.

The claim thus set up appears to be founded on the exceptional title said to have been conveyed to the United States by Russia at the time of the cession of the Alaska Territory. The pretension which the Russian Government at one time put forward to exclusive jurisdiction over the whole of Behring's Sea was, however, never admitted either by this country or by the United States of America. On the contrary, it was strenuously resisted, as I shall presently show, and the American Government can hardly claim to have received from Russia rights which they declared to be inadmissible when asserted by the Russian Government. Nor does it appear from the text of the Treaty of 1867 that Russia either intended or purported to make any such grant; for, by Article I of that instrument, Russia agreed to cede to the United States all the territory and dominion then possessed by Russia "on the Continent of America and in the adjacent islands" within certain geographical limits described, and no mention was made of any exclusive right over the waters of Behring's Sea.

Moreover, whatever rights as regards their respective subjects and citizens may be reciprocally conferred on the Russian and American Governments by Treaty stipulation, the subjects of Her Majesty cannot be thereby affected, except by special arrangement with this country.

With regard to the exclusive claims advanced in times past by Russia, I transmit to you documents communicated to the United States Congress by President Monroe in 1822, which show the view taken by the American Government of these pretensions.

In 1821 the Emperor of Russia had issued an Edict establishing "Rules for the limits of navigation and order of communication along the coast of the Eastern Siberia, the north-western coast of America, and the Aleutian, Kurile, and other islands."

The first section of that Edict said: "The pursuit of commerce, whaling, and fishery, and of all other industry on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring's Straits to the 51st degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring's Straits to the south Cape of the Island of Urup, viz., to the 45° 50′ of northern latitude, is exclusively granted to Russian subjects;" and section 2 stated: "It is, therefore, prohibited to all foreign vessels not only to land on the coast and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo."

A copy of these Regulations was officially communicated to the American Secretary of State by the Russian Minister at Washington on the 11th February, 1822; whereupon Mr. Quincy Adams, on the 25th of that month, after informing him that the President of the United States had seen with surprise the assertion of a territorial claim on the part of Russia, extending to the 51st degree of north latitude on the American Continent, and a Regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within 100 Italian miles of the shores to which that

claim was made to apply, went on to say that it was expected before any act which should define the boundary between the territories of the United States and Russia, that the same would have been arranged by Treaty between the parties, and that "to exclude the vessels of American citizens from the shore *beyond the ordinary* distance to which territorial jurisdiction extends has excited still greater surprise;" and Mr. Adams asked whether the Russian Minister was authorized to give explanations of the "grounds of right, upon principles generally recognized by the laws and usages of nations, which can warrant the claims and Regulations."

90 The Russian Minister, in his reply, dated the 28th February, after explaining how Russia had acquired her possessions in North America, said:

"I ought, in the last place, to request you to consider, Sir, that the Russian possessions in the Pacific Ocean extend on the north-west coast of America from Behring's Strait to the 51st degree of north latitude, and on the opposite side of Asia and the islands adjacent from the same Strait to the 45th degree. The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to *shut seas* ('*mers fermées*'), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners; but it preferred only asserting its essential rights without taking advantage of localities."

On the 30th March Mr. Adams replied to the explanations given by the Russian Minister. He stated that, with respect to the pretension advanced in regard to territory, it must be considered not only with reference to the question of territorial rights, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts. That from the period of the existence of the United States as an independent nation their vessels had freely navigated these seas, the right to navigate them being a part of that independence; and with regard to the suggestion that "the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, 'because it claims territory both on its American and Asiatic shores,' it may suffice to say that the distance from shore to shore on this sea, in latitude 51° north, is not less than ninety degrees of longitude, or 4,000 miles." Mr. Adams concluded as follows: "The President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights."

The Convention between the United States of America and Russia of the 17th April, 1824, put an end to any further pretension on the part of Russia to restrict navigation or fishing in Behring's Sea so far as American citizens were concerned; for by Article I it was agreed that in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the High Contracting Powers shall neither be disturbed nor restrained, either in navigation or fishing, saving certain restrictions which are not material to the present issue; and a similar stipulation in the Convention between this country and Russia in the following year (15th May, 1825) put an end, as regarded British subjects, to the pretensions of Russia to which I have referred, and which had been entirely repudiated by Her Majesty's Government in correspondence with the Russian Government in 1821 and 1822, which for your more particular information *I inclose herein.*

Her Majesty's Government feel sure that, in view of the considerations which I have set forth in this despatch, which you will communicate to Mr. Bayard, the Government of the United States will admit that the seizure and condemnation of these British vessels, and the imprisonment of their masters and crews, were not warranted by the circumstances, and that they will be ready to afford reasonable compensation to those who have suffered in consequence, and issue immediate instructions to their naval officers which will prevent a recurrence of these regrettable incidents.

I am, &c.

(Signed) SALISBURY.

No. 54.

Sir H. Holland to the Marquis of Lansdowne.

DOWNING STREET, *September 14, 1887.*

MY LORD: With reference to previous correspondence, I have the honour to acquaint you, for the information of your Ministers, that the Marquis of Salisbury caused to be referred to the Law Officers the correspondence which has passed respecting the seizure of the three British sealing-vessels, the "Thornton," the "Carolina," and the "Onward," by the United States Revenue cruizer "Corwin," in Behring's Sea, and that they advised that a claim for compensation might properly be made against the United States Government.

I telegraphed to you on the 7th instant that it was proposed to prefer a claim for compensation against the United States Government,
91 and inquiring what amount your Ministers would suggest; but as at present advised it does not seem to me desirable to put forward the claims which accompanied your despatch of the 15th January, as some of them are apparently much exaggerated, and a new issue would be raised as to the reasonableness of the claims.

In the meantime, the Marquis of Salisbury has addressed the despatch, of which I inclose a copy,* to Her Majesty's Minister at Washington, desiring him to communicate it to the Secretary of State.

Your Ministers will no doubt take this matter into consideration at the earliest moment.

I have, &c.

(Signed) H. T. HOLLAND.

No. 55.

Sir L. West to the Marquis of Salisbury.—(Received September 15.)

WASHINGTON, *September 6, 1887.*

MY LORD: I have the honour to inclose to your Lordship herewith an article from the "New York Times" on maritime jurisdiction in Behring's Sea.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

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*No. 53.

[Inclosure in No. 55.]

Extract from the "New York Times" of September 5, 1887.

A DISPUTED OCEAN.—When the new Fisheries "Commission," as Mr. Bayard insists it should not be called, was first announced in Parliament, it was said that its scope would be limited to the controversy between Canada and the United States. But in response to Mr. Gourlay's inquiry, it was subsequently added that the question of including the Alaska seal fisheries was under consideration. It is therefore none too early for public opinion to begin seriously to shape itself on a question about which much less has been said than in the interminable codfish squabble. It is, moreover, a very pretty question in itself, that of our rights in Behring's Sea, and involves issues of no slight intrinsic value.

As everybody knows, Russia regarded Behring's Sea as hers, just as we regard Delaware and Chesapeake Bays as ours, to compare little things with big. Then Russia ceded to us the coast on one side of this little ocean, together with one-half the ocean itself. Next, Congress sold the right of catching seals in what we will call "our" part of that ocean. And now the question of our rights arises upon the catching red-handed poachers who happen to be British. It is intimated that Russia could not convey to us what she did not own herself, and that when we bought Alaska we took in fact much less than the deed, that is the Treaty, recited.

The merits of the question are of course involved in Russia's rights. Her exclusive rights were not conceded, but, on the contrary, were promptly attacked when they were announced in the Ukase of 1821. The title was thus clouded, but it was not invalidated. Russia's last word was that, although she did not care to argue about her rights, whoever invaded them did so at his peril. Instead of quarrelling, Russia and the United States agreed that the citizens of both countries should have unrestrained privileges in those waters. In other words, although Russia's right of exclusion of Americans was disputed, it was deemed good enough by us in 1824 to be the basis of a bargain. Great Britain made a similar Treaty the next year. The British Treaty is still in force, we suppose, over the western, or Russian half of Behring's Sea. Great Britain's rights in the western half are therefore based on the same title as ours in the eastern. She cannot admit the rights of the Czar and deny those of the United States. On the other hand, the United States are not thus involved. We protested against the pretensions of the Czar because they injured American commerce. But, having acquired the Czar's asserted rights by purchase, we are now as much interested in defending them as we before were in attacking them. At the very least we can require that whoever questions those rights should come into Court with clean hands. That means much in connection with this topic, as can readily be made clear.

92 Russia's rights are attacked on the very simple ground that she might as well have annexed the open ocean as Behring's Sea. Russia's position was that the Aleutian Isles, scattered along in a chain between Asia and America, cut off that northern portion of the Pacific Ocean and made it an interior sea, like Hudson's Bay, in British North America, or like the Gulf of California. The claim would be more readily conceded if the Aleutian Isles were more contiguous. As matter of fact, 900 miles of blue water separate the westernmost island from the most eastern extension of Russian mainland. But between the two most separated islands the distance, it must be admitted, is considerably less. Still, it would be enough to overthrow the *mare clausum* theory were the attack made by any other nation than England. That "closed sea" theory is briefly an agreement among nations that so many of them as have sea-coasts may annex so much of the ocean as they can control, and control is construed to extend as far as a cannon-ball can reach. That is the antiquated theory on which exclusive maritime jurisdiction is conceded by nations to one another over the ocean 3 miles from shore. Of course, if two capes were only 3 miles apart the interior sea beyond them would, on the strict *mare clausum* contention, be conceded to the nation owning the capes, but not otherwise.

But neither England nor the United States should push this closed sea argument too hard or too far. England once claimed to own the entire ocean surrounding the British Isles, and in 1806 the United States thought it ought to be conceded a right to exclude belligerents from the Atlantic Ocean between the Gulf Stream and the mainland. To abandon extreme positions and come down to the contentions of to-day, England, which denies to Russia the right to define its possessions by imaginary lines drawn from island to island, assumes to itself the right to exclude Americans from the open ocean included by an imaginary line from headland to headland. Who seeks equity must do equity. The English must not both keep their codfish and grab our seals. On the other hand, by the strictest technical argument it might be that we could both keep what Russia sold us and get what England unjustly denies us. Secretary Bayard has given abundant intimation of

his opinion that a plenary Council would limit the rights which the Czar assumed to convey to us. It is given out that the proper thing would be to arrange upon rules for all to observe regarding seal-fishing. Perhaps so. But that leaves the dispute of right and title untouched, and who can say in what form it may return to plague us? Moreover, while Americans are doubtless prepared to yield what others justly claim, still, there should be no surrender before challenge.

No. 56.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *September 15, 1887.*

SIR: It appears from the transcript of the record of the judicial proceedings in the cases of the schooners "Carolina," "Onward," and "Thornton," forwarded in your despatch of the 12th July last, that in each case notice was given of appeal from the finding of the District Court.

I have to request that you will ascertain whether the owners of the vessels have taken steps to prosecute the appeal, and if so, when such appeal may be expected to come on for hearing.

I am, &c. (Signed) SALISBURY.

No. 57.

Colonial Office to Foreign Office.—(Received September 16.)

DOWNING STREET, *September 15, 1887.*

SIR: With reference to previous correspondence, I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquis of Salisbury, copies of two despatches from the Governor-General of Canada, forwarding papers respecting the recent seizure of British sealing-vessels by a United States Revenue cutter in Behring's Sea.

I am, &c. (Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 57.]

The Marquis of Lansdowne to Sir H. Holland.

NEW DERREEN, NEW RICHMOND, P. Q., *August 19, 1887.*

SIR: I have the honour to inclose herewith, for your information, copies of a Report which has been received by my Minister of Marine and Fisheries from the Collector of Customs at Victoria, British Columbia, in regard to the seizure of the sealers "Grace," "Dolphin," and "W. P. Sayward" by the United States Revenue cutter "Richard Rush."

2. I beg to call your especial attention to the deposition inclosed in Mr. Hamley's Report of Captain Laing, of the "W. P. Sayward." You will observe that Captain Laing states positively that the seals of which the skins were found on board his vessel were not taken in the Behring's Sea.

3. It is scarcely necessary to dwell upon the grievous hardship occasioned by these seizures, for which, as far as I am aware, no justification has yet been forthcoming, not only to the owners and to the officers and crews, but to the Indian hunters on board who were, it appears, left to find their way home as they could from Sitka to their own villages, distant about 700 miles from that place.

I have, &c. (Signed) LANSDOWNE.

[Inclosure 2 in No. 57.]

The Marquis of Lansdowne to Sir H. Holland.

THE CITADEL, *Quebec, August 27, 1887.*

SIR: With reference to my despatch of the 19th instant, in regard to the seizure of the sealers "Grace," "Dolphin," and "W. P. Sayward" by the United States Revenue cutter "Richard Rush," I have the honour to forward herewith copy of an approved Minute of the Privy Council of Canada, to which are appended copies of the following documents:

1. A letter from H. Hamley, Collector of Customs at Victoria, British Columbia, to the Minister of Marine and Fisheries.
2. The affidavit of Andrew Laing, mate of the seized schooner "Sayward," sworn to at Victoria on the 8th August, 1887.
3. The information filed in the District Court of the United States for the District of Alaska against the master and mate of the "Sayward."

It is requested that these papers, copies of which were inclosed in my above-mentioned despatch, may be transmitted to the Foreign Office, in order that a remonstrance may be addressed to the United States Government against the unwarrantable action of the Commander of the "Rush," and a claim made for all damages arising from the seizure of the "Sayward," and the detention of her officers and crew.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 3 in No. 57.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on August 25, 1887.

On a Report, dated the 17th August, 1887, from the Minister of Marine and Fisheries, submitting, with reference to the seizure by the United States steamer "Richard Rush" on the 9th July last, in the Behring's Sea, of the British schooner "W. P. Sayward," of Victoria, the following papers:

1. A letter from W. Hamley, Collector of Customs at Victoria, British Columbia, to the Minister of Marine and Fisheries;
2. The affidavit of Andrew Laing, mate of the seized schooner, sworn to at Victoria on the 8th August, 1887; and
3. The information filed in the District Court of the United States for the District of Alaska against the master and mate of the "Sayward;"

The Minister observes that, upon reference to the affidavit of the mate of
94 the schooner "Sayward," it appears that all the seals on board the vessel were taken in the Pacific Ocean, and before the vessel entered the Behring's Sea, so that even the alleged claim on the part of the United States Government to jurisdiction in the Behring's Sea is not available in the case now complained of; and would also call attention to the reply of the Commander of the United States steamer "Richard Rush," in which he states his orders were "to take everything he came across in the Behring's Sea."

The Committee recommend that your Excellency be moved to forward copies of the annexed papers to the Right Honourable the Principal Secretary of State for the Colonies, for transmission to the Foreign Office, in order that a remonstrance may be made to the United States Government for so unwarrantable an act as that committed by the Commander of the "Richard Rush," and a claim made for all damages arising out of the seizure of the schooner "W. P. Sayward" in the open sea, and the detention of her officers and crew, and also that copies of the papers be sent to Her Majesty's Minister at Washington.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 4 in No. 57.]

Mr. Hamley to the Hon. G. E. Foster.

CUSTOM-HOUSE, *Victoria, August 9, 1887.*

SIR: On the 5th instant I sent you word by telegram that three more Canadian vessels had been seized in Behring's Sea, and sent to Sitka, "Grace," "Dolphin," and "W. P. Sayward." This news reached us by the steamer "Olympian," and, the

day following, the mate of the "W. P. Sayward," one of the seized vessels, came down on the steamer "Idaho." I had him here at the custom-house, and his statement in some particulars was so important that I thought it desirable that it should be taken down before a notary public, and the deposition forwarded to you. I inclose it herewith. The seizure was made on the 9th July by the master of the Revenue cutter "Rush" in Behring's Sea, from 30 to 40 miles from any land; the mate denies that any seal was killed in Behring's Sea; the skins, 479 in number, all taken, he says, in the Pacific, were lodged in the Alaska Company's warehouse at Ounalaska, and the vessel herself sent to Sitka. There is no doubt now, from the declaration of the master of the United States Revenue cutter made openly on the deck of the "W. P. Sayward," that, in seizing this and other Canadian vessels, he was acting under direct instructions from the United States Government.

I forward also the information laid in the District Court at Sitka by the United States Attorney Ball against the master and mate of the "W. P. Sayward." The indictments against the masters and mates of the other vessels are in the same form and terms—the complaint being that they had killed fur-seals in Behring's Sea, contrary to the Statutes of the United States, and against the peace and dignity of the United States of America. The case is to be heard in the District Court at Sitka on the 22nd of this month. The mate of the "W. P. Sayward" was allowed out on bail in 500 dollars, and returned last night for the trial.

I have, &c.

(Signed) W. HAMLEY.

[Inclosure 5 in No. 57.]

Declaration of Andrew Laing.

(See inclosure 3 in No. 52.)

[Inclosure 6 in No. 57.]

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA

The United States v. *George R. Ferry and A. Laing.—Information.*

(See inclosure 2 in No. 52.)

No. 58.

Colonial Office to Foreign Office.—(Received September 26.)

DOWNING STREET, *September 24, 1887.*

SIR: With reference to recent correspondence, I am directed by Secretary Sir Henry Holland to transmit to you, for such action upon it as the Marquis of Salisbury may think proper to take, a telegram received this day from the Governor-General of Canada, relating to the question of the release of the British Columbian sealing-vessels seized by the United States authorities in Behring's Sea.

This telegram appears to relate to the vessels seized last year.

I am to request to be informed of any communication which may be made to the United States Government in order that a reply may be sent to the Governor-General.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 58.—Telegraphic.]

The Marquis of Lansdowne to Colonial Office.

SEPTEMBER 23, 1887.

I understand that, after Mr. Bayard's announcement of the 3rd February respecting Behring's Sea seizures, instructions were sent in accordance with it to the Alaska authorities by telegraph; that an instrument for the release of the vessels was thereupon issued by the District Judge, but that subsequently, on the assumption that the telegram was forged, he rescinded the order; that no steps have been taken by the Department since; the vessels are still detained.

My Government trusts the facts will be inquired into.

No. 59.

The Marquis of Salisbury to Sir L. West.—(Substance telegraphed.)

FOREIGN OFFICE, *September 27, 1887.*

SIR: I transmit to you, for your information, a copy of a letter from the Colonial Office,* inclosing a telegram from the Governor-General of Canada, from which it appears that the British schooners "Carolina," "Onward," and "Thornton," referred to in your despatch of the 4th February last, have not yet been released.

In his note of the 3rd February, inclosed in your above-mentioned despatch, Mr. Bayard stated that "orders have been issued, by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

Her Majesty's Government regret to learn that delay has taken place in the release of the three vessels, and I have to instruct you to inquire the reason why the directions of the President, as above quoted, have not been carried out.

I am, &c.

(Signed) SALISBURY.

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96 No. 60.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *September 27, 1887.*

SIR: I transmit to you herewith copies of two despatches addressed to Her Majesty's Secretary of State for the Colonies by the Governor-General of Canada,† forwarding papers relative to the seizure in Behring's Sea by the United States Revenue cutter "Richard Rush" of three British Colombian vessels, the "Grace," the "Dolphin," and the "W. P. Sayward."

I have to request that you will make a representation to the United States Government on the subject of the seizure and detention of these vessels in connection with the representations which I instructed you to make in the cases of the "Onward," the "Carolina," and the "Thornton," and that you will reserve all rights to compensation on behalf of the owners and the crews.

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* No. 58. † Inclosures in No. 57.

You should point out to Mr. Bayard that in the case of the "W. P. Sayward," according to the deposition of her mate no seals had been taken by her crew in Behring's Sea as is alleged in the libel of information filed on behalf of the United States District Attorney in the District Court of Alaska.

I am, &c.

(Signed) SALISBURY.

No. 61.

Memorandum communicated by Baron Plessen, October 5, 1887.

The Imperial Government would like to know what are the views of Her Britannic Majesty's Government with regard to the American proposal for an International Convention for the protection of seals in the Behring's Sea.

No. 62.

Sir L. West to the Marquis of Salisbury.—(Received October 6.)

[Extract.]

WASHINGTON, *September 23, 1887.*

I have the honour to acknowledge the receipt of your Lordship's despatch of the 10th instant, and to inform your Lordship that I communicated it this day to the Secretary of State, and, at his request, left a copy of it in his hands.

No. 63.

Admiralty to Foreign Office.—(Received October 6.)

ADMIRALTY, *October 4, 1887.*

SIR: I am commanded by the Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copy of a letter from the Commander-in-chief on the Pacific Station, dated the 14th September, inclosing a list of the schooners that have been sealing, extracted from the "Victoria Colonist" newspaper, dated the 13th September.

A similar letter has been sent to the Colonial Office.

I am, &c.

(Signed) EVAN MACGREGOR.

[Inclosure 1 in No. 63.]

Rear-Admiral Culme-Seymour to Admiralty.

"TRIUMPH," AT ESQUIMALT, *September 14, 1887.*

SIR: The sealing season being now over, I have the honour to inclose a list of the schooners that have been sealing, cut from the "Victoria Colonist" of yesterday's date. It is not yet known whether the five vessels "to arrive" have been seized or not, but they are overdue here.

97 With reference to the schooner "Alfred Adams," I am credibly informed she was boarded by the American Revenue schooner in Behring's Sea, her skins (1,300 in number) taken out, as well as her arms, and she was told to proceed to Sitka. No one being put on board, the captain brought his vessel down here.

No orders whatever have ever been received here with regard to the release of the schooners seized last year, which are now, I believe, high and dry at Ounalaska, wormeaten and worthless.

I have, &c.

(Signed) M. CULME-SEYMOUR.

[Inclosure 2 in No. 63.]

Extract from the "Daily Colonist," Victoria, B. C., of September 18, 1887.

LIST OF VESSELS ARRIVED, WITH THEIR TOTAL CATCH; THOSE TO ARRIVE; SCHOONERS SEIZED.

The following is the list of sealing schooners which have arrived in port with their northern catches; also those to arrive and those seized. The coast catch by Indians and the spring catch by American sealers disposed of in Victoria are also appended:

VESSELS ARRIVED.

Name.	Spring catch.	Northern catch.	Total.
Pathfinder	400	2,377	2,817
Penelope	1,000	1,500	2,500
Mary Ellen	367	2,090	2,457
Lottie Fairfield	400	2,600	3,000
Mary Taylor	200	800	1,000
Mountain Chief	400	667	1,067
Black Diamond	.....	984	.....
Adela	164	1,350	1,514

VESSELS TO ARRIVE.

Ada	349	.....	.....
Kate	1,030	.....	.....
Favourite		.....	.....
Theresa	307	.....	.....
Triumph	21	.....	.....

VESSELS SEIZED.

Dolphin	1,500	.....	.....
Grace			
Anna Beck			
W. P. Sayward			
Alfred Adams	.....	.....	.....

The number of seals caught by American schooners and sold in this city is as follows:

Helen Blum	436
Sylvia Handy	139
San José	197
City of San Diego	200
Vanderbilt	617
Discovery	250

The Neah Bay schooner "Lottie's" northern catch was disposed of the other day, and amounted to 700 skins.

This makes the total catch, so far as could be gleaned yesterday, 19,046 skins by British vessels, and 2,539 skins disposed of by American schooners.

The catch off the west coast by the Indians and sold to store-keepers was 500.

The total number of skins brought into port for this season will represent in dollars, *at 6 dol.* 50 c. per skin, the handsome sum of 140,302 dol. 50 c.

98 No. 64.

Sir. L. West to the Marquis of Salisbury.—(Received October 10.)

WASHINGTON, *September 28, 1887.*

MY LORD: In pursuance of the instructions contained in your Lordship's telegram of yesterday's date, I have this day addressed a note to Mr. Bayard, copy of which is herewith inclosed, inquiring the reason for the non-release of the British vessels mentioned in his note of the 3rd February last.

I also have the honour to transmit herewith to your Lordship copy of an extract from the "New York Tribune" of yesterday bearing on this point.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 64.]

Sir L. West to Mr. Bayard.

WASHINGTON, *September 28, 1887.*

SIR: I have the honour to inform you that Her Majesty's Government have been officially informed that the British vessels mentioned in your note of the 3rd February last have not been released, and that I am instructed to inquire the reason for the delay in complying with the orders sent to this effect, as stated in your above-mentioned note.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 2 in No. 64.]

Extract from the "New York Tribune" of September 27, 1887.

THE ALASKA SEIZURES.

OTTAWA, *September 26, 1887.*

The Government has just received the Report of Mr. Drake, Q. C., who was sent to Alaska to investigate matters in connection with the Behring's Sea seizures. The following is a copy of the despatch addressed to Judge Lafayette Dawson and Colonel Ball, United States District Attorney at Sitka, which has not been carried out to this day, and in respect to which the Canadian Government has recently sent a strong protest to the mother-country for transmission to Washington:

"WASHINGTON, *January 26, 1887.*

"I am directed by the President to instruct you to discontinue all proceedings in the matter of seizure of the British vessels 'Carolina,' 'Onward,' and 'Thornton,' and to discharge all vessels now held under such seizures, and release all persons that may be under arrest in connection therewith.

(Signed) "A. H. GARLAND, *Attorney-General.*"

Judge Dawson thereupon issued an order to Marshal Atkins to release the vessels, but, as stated in previous despatches, afterwards withdrew it on the representation, Mr. Drake says, of Atkins, and against the express opinion of Colonel Ball. A record of the original instructions appears on the books of the District Court, but there is no record of their withdrawal.

The "Onward," "Carolina," and "Thornton" are still beached at Ounalaska, and cannot be removed without considerable expense. The skins taken on these vessels were sent to San Francisco by a steamer belonging to the Alaska Commercial Company. Mr. Drake says he cannot find that there was any authority given by the United States Government for seizures made last year, but that they seem to have been made at the instance and in the interests of the Commercial Company.

No. 65.

Note from United States Minister at Stockholm to Swedish Government.—(Communicated by M. d'Adelborg, October 10, 1887.)

The Government of the United States recognizes the necessity of taking steps for the better protection of the fur-seal fisheries in Behring's Strait. The indiscriminate and unregulated killing of these valuable animals has of late years greatly reduced their number, and threatens in a comparatively short time to all but extinguish them.

99 The importance of respective Governments entering into an arrangement which shall have for its purpose the regulation of seal-hunting and to the present indiscriminate slaughter of seals, is so apparent that it needs no elaboration.

To this end I am directed to invite the United Kingdoms of Sweden and Norway to enter into such an arrangement with the Government of the United States as will prevent the citizens of either country from killing seal in Behring's Sea in such times and places and by such methods as at present are pursued.

The Governments of Germany, Great Britain, Russia, France, and Japan, have likewise been invited to co-operate to this end.

No. 66.

The Marquis of Salisbury to M. d'Adelborg.

The Marquis of Salisbury has had the honour to receive the copy of a communication addressed to the Swedish Government by the United States Minister at Stockholm which Count Adelborg has been good enough to leave at the Foreign Office.

Her Majesty's Government have not received any similar communication from the Government of the United States regarding the protection of the fur-seal fisheries in Behring's Sea. Lord Salisbury would, however, be glad to know whether the invitation to enter into an arrangement on the subject will be accepted by the Swedish Government.

FOREIGN OFFICE, *October 11, 1887.*

No. 67.

Foreign Office to Baron Plessen.

Sir J. Pauncefote has the honour to inform Baron Plessen, with reference to his inquiry of the 5th instant, that no proposal has been made to Her Majesty's Government by the Government of the United States for an International Convention for the protection of seals in Behring's Sea. The Marquis of Salisbury would be glad to be informed of the decision which may be adopted in the matter by the German Government.

FOREIGN OFFICE, *October 11, 1887.*

No. 68.

Admiralty to Foreign Office.—(Received October 14.)

ADMIRALTY, *October 13, 1887.*

SIR: With reference to previous correspondence respecting the seizure of sealing schooners, I am commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copy of a letter from the Commander-in-chief on the Pacific Station dated the 23rd September, forwarding an extract from the "Victoria Daily Times" of Monday, the 19th September, 1887, containing a demurrer handed in at Sitka by Mr. M. W. T. Drake, Q.C., who was sent to Sitka by the Dominion Government of Canada.

I am to request that the newspaper extracts may be forwarded to the Colonial Office for the perusal of Secretary Sir Henry Holland, with a request that they may be returned to the Admiralty when done with.

I am, &c.

(Signed) EVAN MACGREGOR.

[Inclosure 1 in No. 68.]

Rear-Admiral Seymour to Admiralty.

"TRIUMPH," AT ESQUIMALT, *September 23, 1887.*

SIR: Referring to the capture of sealing schooners by the American Government, I have the honour to forward a copy of a demurrer handed in at Sitka by Mr. M. W. T. Drake, Q. C., of Victoria, who was sent to Sitka by the Dominion Government of Canada.

100 2. It would appear by Lord Salisbury's despatch of the 10th August, 1887, that orders were given for the schooners seized in 1886 to be released, and I am informed a telegram to that effect was received at Sitka; nothing was done, and the vessels are, as stated in my letter of the 14th instant, high and dry at Ounalaska, and I am credibly informed so wormeaten and damaged as hardly to be worth removal. Certainly no information has ever been received by any authority here, or by the owners of the schooners seized in 1886, that they were to be released.

3. With regard to the vessels seized this year, the crews have been released and one of the schooners has been chartered by the authorities at Sitka to proceed to Ounalaska and bring the skins taken out of the schooners seized this year and landed at the latter place, to Sitka. The trials will probably take place at Sitka about this time.

I have, &c.

(Signed) M. CULME SEYMOUR.

[Inclosure 2 in No. 68.]

Extract from the "Victoria Daily Times" of September 19, 1887.

At present the seizure of the Victoria seal-hunting schooners with their officers, crew, and hunters is the topic of the hour in this city. Mr. Drake's demurrer, the full text of which is herewith given, will be read with especial interest:

"BRIEF OF MR. M. W. T. DRAKE, Q. C.

"(Filed on behalf of the officers of the British sealers.)

"UNITED STATES COURT, *District of Alaska.*

"The United States, plaintiff, *v.* J. D. Warren and J. C. Riley, defendants.

"Brief in support of the demurrer filed herein the 30th August, 1887, on behalf of the masters and owners of the British schooners 'Anna Beck,' 'Dolphin,' 'Grace,' and 'W. P. Sayward,' seized by the United States cutter for an alleged infraction of an Act of the United States Congress No. 120, being an Act to prevent the extermination of fur-bearing animals in Alaska. The Act is directly against killing seals

in the waters adjacent to the islands of St. Paul and St. George and does not refer to any other waters in Behring's Sea, but on referring to section 1956 of the Revised Statutes, the language used is somewhat different, prohibiting the killing of fur-bearing animals within the limits of Alaska Territory or the waters thereof. The first question then to be decided is what is meant by 'the waters thereof.' If the defendants are bound by the Treaty between the United States and Russia ceding Alaska to the United States, then it appears that Russia in 1822 claimed absolute territorial sovereignty over the Behring's Sea and purported to convey practically one half of that sea to the United States, but are the defendants as men belonging to a country on friendly terms with the United States bound by this assertion of Russia? And can the United States claim that the Treaty conveys to them any greater right than Russia herself possessed in these waters? In other words, the mere assertion of a right contrary to the comity of nations can confer on the grantees no rights in excess of those recognized by the law of nations.

"RIGHTS OF GREAT BRITAIN AND THE UNITED STATES.

"In inquiring what that right was and how far it was submitted to by the other Powers interested, namely, Great Britain and the United States, we find the United States Minister at St. Petersburgh in 1822 combatting the pretensions of Russia to a jurisdiction over the waters of Behring's Sea for a distance of 100 miles from the coast (for this was the extent of Russia's claim in 1822) in the following expressive language: 'The existence of territorial rights to the distance of 100 miles from the coast and the prohibition of approaching to the same distance from these coasts and from those of all intervening islands are innovations on the law of nations and measures unexampled.' We thus find that the assumption of a limited sovereignty over the waters of Alaska was challenged by the United States, and in consequence was not persisted in, and on the 17th April, 1824, a Convention was concluded between the United States and Russia, whereby it was agreed, 'that in any part of the great ocean commonly called the Pacific Ocean or South Sea, the respective citi-
101 zens, subjects of the High Contracting Powers, should be neither disturbed or restrained either in navigation or in fishing or in the power of resorting to the coasts upon points which might not then have been already occupied for the purpose of trading with the natives, saving always the restrictions and conditions contained in certain Articles attached to the Treaty referring to illicit trade with the Indians.'

"A TREATY WITH RUSSIA.

"The Government of Great Britain, on the 28th February, 1825, also entered into a Treaty with Russia in consequence of the same extravagant pretensions of Russia, which Treaty contains the following provisions: 'It is agreed that the respective subjects of the High Contracting Parties shall not be troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied in order to trade with the natives under the restrictions and conditions specified in the then following Articles.' These restrictions are not dissimilar from those attached to the Treaty with the United States. In order to ascertain what were the pretensions of Russia which led to these Treaties it is necessary to refer to the Edict of the Autocrat of all the Russias. By Section 1 it is enacted: 'That the pursuits of commerce, whaling, and fishing, and all other industries on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring's Straits to 51° of north latitude, also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring's Straits to the south Cape of the Island of Uruck, namely, 45° 50′ northern latitude is exclusively granted to Russian subjects.'

"RUSSIA'S CLAIMS.

"Section 2.—'It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation along with the whole cargo.' Thus it appears that Russia claimed 100 miles from the coast of all the islands as well as the mainland of Behring's Sea and south to 45° 50′. It was this claim that led to the indignant remonstrance of the United States and Great Britain, and to the Treaties before referred to, and shows that Behring's Sea was included in the term Pacific Ocean. The pretensions of Russia were never revived, and the citizens of Great Britain as well as the United States had free access at all times to these waters in navigating and fishing without any restriction. And Russia's claim was never revived until she purported to cede to the United States a portion of Behring's Sea. Russia could not sell what she did not own, and the United *States could not claim* that which it was not in the power of Russia to sell. The

Treaty with England has never been abrogated, and was in force when the cession to the United States took place, and there was no need to protest against the extravagant pretensions of Russia in purporting to dispose of the high seas, as until last year no attempt had been made to enforce such a claim.

"AUTHORITIES QUOTED.

"The United States have always been the strongest upholders of the law of nations, and on this head Kent's Commentaries, p. 28: 'The open sea is not capable of being possessed as private property; the free use of the ocean for navigation and fishing is common to all mankind, and the public jurists generally and explicitly deny that the main ocean can ever be appropriated.' He also refers to the claim of Russia, and in another place he states that the 'United States have recognized the limitation of a marine league for general territorial jurisdiction by authorizing the District Courts to take cognizance of all captures made within a marine league of the American shore.' (See Act of Congress, June 5, 1794.)

"And in Wharton's 'International Law Digest,' p. 32, the author says, 'The limit of 1 sea league from shore is provisionally adopted as that of the territorial sea of the United States,' and 'our jurisdiction has been fixed to extend 3 geographical miles from our shores, with the exception of any waters or bays which are so landlocked as to be unquestionably within the jurisdiction of the United States, be their extent what they may.' Behring's Sea is not a gulf or a bay, and is not landlocked by the lands of the United States.

"SECRETARY SEWARD'S VIEWS.

"Wharton again states that 'a vessel on the high seas beyond the distance of a marine league from the shore is regarded as part of the territory of the nation to which she belongs;' and Mr. Seward, in a letter to Mr. Tassara, 16th December, 1862, tersely states the principle as follows: 'There are two principles bearing on the subject which are universally admitted: (1) that the sea is open to all nations; and (2) that there is a portion of the sea adjacent to every nation over which the sovereignty of that nation extends, to the exclusion of every other political authority. A third principle bearing on the subject is that the exclusive sovereignty of a nation abridging the universal liberty of the seas extends no further than the power of the nation to maintain it by force stationed on the coast extends.'

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"'Terræ dominium * * * vis.' (The sovereignty of the coast ends where the power to control it by force of arms terminates.) It thus appears that by the comity of nations, sanctioned and approved by American jurists, that the high seas are open to all; that the territorial authority only extends to a marine league, or, at all events, not further than a force on shore can protect the coasts.

"SOVEREIGNTY CLAIMED BY THE UNITED STATES.

"It also appears that the United States, in claiming sovereignty over the Behring's Sea, is claiming something beyond the well recognized law of nations, and bases her claim upon the pretensions of Russia, which was successfully repudiated by both Great Britain and the United States. A Treaty is valid and binding between the parties to it, but it cannot affect others who are not parties to it. It is an agreement between nations, and would be construed by law as an agreement between individuals. Great Britain was no party to it, and therefore was not bound by its terms.

"It is therefore contended that the proceedings taken against the present defendants are *ultra vires* and without jurisdiction. But in order to press the matter further, it may be necessary to discuss the act itself under which the alleged jurisdiction is assumed. The Act must be construed by what appears within its four corners, and not by any extrinsic document. It is an Act defining a criminal offence, and an Act which abridges the privileges and immunities of citizens must be most strictly construed, and nothing but the clearest expression can or ought to be construed against the interest of the public in applying this principle to the present case. The terms used in the Act itself are, 'The waters adjacent to the Islands of St. George and St. Paul.' 'Adjacent,' in Wharton, p. 846, is held to be adjacent to the coast, and within the territorial jurisdiction of the country. This language, then, does not apply to these defendants, who were 50 miles from the nearest coast. In section 1956 the language is, 'the waters of Alaska.' This must also be construed by the universal law as applying to the territorial limit only. And in a letter from Mr. Evarts to Mr. Foster, in April 1879, referring to a case in which certain American merchant-vessels were seized by the Mexican authorities for an alleged breach of the Revenue Laws, although distant more than 3 miles from shore, it was held to be an international offence, and was not cured by a Decree in favour of the assailants by the Mexican Court.

"So here it is submitted that a Decree of your Honour's Court will not give any validity to the seizures here made, and the defendants, in filing their demurrer and submitting this argument, do not thereby waive their rights or submit to the jurisdiction of the Court."

No. 69.

Sir L. West to the Marquis of Salisbury.—(Substance telegraphed, October 14.)

WASHINGTON, *October 14, 1887.*

MY LORD: With reference to the note from the Secretary of State, copy of which was inclosed in my despatch of the 12th instant,* I have the honour to inclose to your Lordship herewith copy of a further reply to my note of the 28th ultimo, expressing regret that misconception of the intentions and orders of the President for the release of the sealers "Onward," "Carolina," and "Thornton" should have delayed their prompt execution, and stating that renewed orders have been forwarded.

I have communicated copy of this note to the Marquis of Lansdowne, the substance of which I telegraphed to your Lordship this day.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

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103 [Inclosure in No. 69.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, October 13, 1887.*

SIR: Continuing my reply to your note of the 29th ultimo, inquiring the reason for the delay in complying with the order issued in January last for the release of British vessels seized last year in Behring's Sea, I beg leave to inform you that I have this day received a communication from my colleague the Attorney-General, informing me that his telegram to the United States Marshal at Sitka of the 26th January last, ordering the release of the British schooners "Onward," "Carolina," and "Thornton," owing to some misconception and mistake on the part of the official to whom it had been addressed had not been acted upon.

A renewed order has gone forward for their release, as had been distinctly directed last January, and which I had no reason to doubt had been promptly obeyed.

In my note to you of the 11th instant I stated it to be my impression that no hindrance to their repossession by the owners of the vessels named existed.

This impression, it now appears, was not well founded, and as my object is to give you the fullest information within my power in relation to all transactions touched in our correspondence, I hasten to communicate the latest report made to me from the Department of Justice.

I take leave also to express my regret that any misconception of the intentions and orders of the President should have delayed their prompt execution.

I have, &c.

(Signed) T. F. BAYARD.

No. 70.

Colonial Office to Foreign Office.—(Received October 18.)

DOWNING STREET, *October 17, 1887.*

SIR: I am directed by Secretary Sir H. Holland to transmit to you, to be laid before the Marquis of Salisbury, copy of a despatch from the Governor-General of Canada, dated the 26th September, with its

* See No. 73.

inclosures, respecting the seizure in Behring's Sea of the British schooner "Alfred Adams."

These papers appear to Sir H. Holland to point to a serious state of things, which seem to make it necessary that some decided action in the matter should be taken by Her Majesty's Government. And he would suggest, for the consideration of Lord Salisbury, whether it would not be desirable to instruct Sir L. West, unless he has already done so, formally to protest against the right assumed by the United States of seizing vessels for catching seals beyond the territorial waters of Alaska.

I am to add Sir H. Holland makes this suggestion, as Mr. Bayard is reported in the newspapers to have stated that no protest against their right to seize had been made, and to have assumed, therefore, that Her Majesty's Government did not really dispute it.

I am, &c. (Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 70.]

The Marquis of Lansdowne to Sir H. Holland.

CITADEL, *Quebec, September 26, 1887.*

SIR: In continuation of my despatch of the 27th August and in reference to previous correspondence, I have the honour to inclose herewith a copy of an approved Minute of the Privy Council of Canada, covering copies of a Report of my Minister of Marine and Fisheries relating to the seizure and detention of the Canadian sealing schooner "Alfred Adams," and of other Canadian sealing vessels by the United States authorities in the Behring's Sea.

2. The letter directed to the United States District Attorney at Sitka, marked D in the Minister's Report, which came into the possession of my Government under the circumstances described in the Declaration of Captain Dyer, of the "Alfred
104 Adams," has been for warded, together with copies of the papers, to Her Majesty's Minister at Washington.

3. The circumstances under which the "Adams" was seized do not differ materially from those attending previous seizures in the same waters. I have already laid before you the reasons which have led my Government to protest against the assumption that the Statutes under which other seizures, and I presume this also, have been made, Statutes governing the conduct of persons fishing within "the territory of Alaska" or "in the waters thereof" (*vide* United States Revised Statutes, 1955, 1956), are applicable to the whole of the waters of the Behring's Sea, and in cases where, as in those under discussion, the vessels seized were found fishing at a great distance from the nearest land.

4. I trust that the earnest attention of Her Majesty's Government will be given to the statements contained in the Minister's Report. No satisfactory explanation has yet been given of the action of the United States Government subsequent to Mr. Bayard's announcement of the 3rd February of the present year, when it was stated by him to Her Majesty's Minister at Washington that "orders had been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

5. You will observe from Mr. Foster's recapitulation of the evidence which he has been able to collect, and the documents attached to his Report, that an impression prevails upon the spot to the effect that orders such as those described by Sir Lionel West were actually issued from Washington. There appears at all events to be some reason for believing that a telegram authorizing the release of the vessels then under detention was in fact received by the District Judge, and that instructions were thereupon issued by him for the purpose of carrying out these orders. The circumstances under which those instructions are said to have been subsequently rescinded by the District Judge have not unnaturally given rise to the gravest suspicion.

6. The Minister has called attention with great force in his Report to the injury sustained by persons engaged in the sealing industry from the suspense and uncertainty in which they have been kept during the past season owing to the refusal of the United States Government to give any explicit assurances as to the treatment which they might expect at its hands.

I have, &c. (Signed) LANSDOWNE.

[Inclosure 2 in No. 70.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 21st September, 1887.

The Committee of the Privy Council have had under consideration the annexed Report of the Minister of Marine and Fisheries with reference to the seizure and detention of Canadian sealing-vessels by the United States authorities in Behring's Sea.

The Committee concur in the said Report, and they advise that your Excellency be moved to transmit a copy of this Minute and the annexed papers to the Right Honourable the Secretary of State for the Colonies.

All which is submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council, Canada.

[Inclosure 3 in No. 70.]

Report of the Minister of Marine and Fisheries.

With reference to previous correspondence concerning the seizure and detention of Canadian sealing-vessels by the United States authorities in Behring's Sea, the Minister of Marine and Fisheries begs to submit, for the consideration of his Excellency the Governor-General in Council, the following papers:

105 (*a*) A letter from Collector Hamley, of Victoria, British Columbia, dated the 1st September, 1887, inclosing certain papers in reference to the seizure of the Canadian sealing-schooner "Alfred Adams" in Behring's Sea.

(*b*) The Declaration of William Henry Dyer, of Victoria, British Columbia, master of the Canadian schooner "Alfred Adams."

(*c*) A certificate of seizures of the "Alfred Adams," signed by L. G. Shepard, captain of the United States Revenue steamer "Rush."

(*d*) A sealed and unopened letter directed to the United States District Attorney and United States Marshal, Sitka, Alaska.

(*e*) A letter from Collector Hamley, of Victoria, British Columbia, dated the 26th July, relating to the detention of the Canadian schooners "Onward," "Carolina," and "Thornton," seized in August 1866, by the United States cutter "Corwin," in Behring's Sea.

(*f*) Copy of a telegram and order purporting to be from the United States Attorney-Geueral and Judge Dawson respectively, relating to the release of the above-named vessels; and

(*g*) A letter dated the 3rd September, 1887, from the law firm of Drake, Jackson, and Helmcken, of Victoria, containing additional information relating to the same.

From the above-mentioned papers, it appears that on the 6th August, 1887, the Canadian schooner "Alfred Adams," whilst engaged in catching seals in the open sea, more than 50 miles distant from the nearest land, was forcibly seized by an armed vessel of the United States, her ship's papers taken, her cargo of seal-skins, 1,386 in number, together with all her arms, ammunition, and fishing implements transferred to the United States cutter, and her captain ordered to proceed with sealed orders to Sitka, and to deliver himself, his vessel, and men into the hands of the United States Marshal at that place.

This treatment of the "Alfred Adams" whilst peaceably pursuing her lawful calling on the high seas is but a repetition of the unjustifiable seizures of Canadian vessels made by the United States authorities in Behring's Sea, and which have been dealt with at length in previous Reports to Council.

The Minister, therefore, does not consider it necessary in this instance to traverse the ground already so fully covered, and recommends that a copy of this Report with the papers attached be forwarded to Her Majesty's Government for their earnest and immediate consideration, and that a copy thereof be sent to the British Minister at Washington, together with the sealed letter given by Captain Shepard to the master of the "Adams," with the request that it be forwarded to Mr. Secretary Bayard.

With reference to the attached papers (*e*), (*f*), and (*g*), the Minister observes that from the first (*e*) it appears that inquiries made by the Collector of Customs at Victoria, British Columbia, in July last, resulted in his obtaining the information that Judge Dawson had up to that date received no orders for the release of the Canadian sealing-vessels seized in 1886, that the vessels had not been sold, and remained still under seizure, and that Judge Dawson, when questioned as to the report that a telegram had been sent to him by the Attorney-General of the United States, ordering the release of the vessels, had replied that he had heard of this report before, but that nothing of the kind had reached either himself or the United States Marshal *at Sitka.*

The paper marked (*f*) purports to be a copy of a telegram, dated the 26th January, 1887, from the United States Attorney-General Garland to Judge Dawson, ordering him to release the vessels seized in August preceding, and of an order founded thereon from Judge Dawson to the United States Marshal at Sitka, bearing date the 19th February, 1887, directing him to "release the 'Carolina,' 'Onward,' 'Thornton,' and 'San Diego,' together with all their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels."

The third paper, marked (*g*), is a copy of a letter from the law firm of Drake, Jackson, and Helmcken, of Victoria, British Columbia, to the Minister of Justice, informing him that they are advised that a telegram was received by Judge Dawson from the United States Attorney-General, ordering the release of the vessels above referred to; that Judge Dawson did issue an order accordingly, but that he afterwards rescinded the order on the assumption that the telegram was a forgery, and that since "no official letters of any sort, either confirming the telegram or respecting the affair, has been received at Sitka."

The Minister observes that, if the information conveyed in the above-men-
196 tioned papers is correct, of which there appears no reasonable doubt, it reveals a state of affairs by no means satisfactory.

On the 3rd February, 1887, Mr. Secretary Bayard informed the British Minister at Washington that "orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

A telegram in accordance with Mr. Bayard's communication appears to have been sent to Alaska, and an order based thereon to have been issued by the District Judge, but to have been afterwards rescinded, and no further action has been taken up to date of latest information.

Meanwhile, the vessels remain under seizure, the seal-skins are forfeited, and the property of Canadian citizens forcibly witheld from them under circumstances which involve very great loss and damage.

The Minister further observes that, with a view of guiding the action of Canadian citizens interested in sealing in the northern seas, repeated attempts were made previous to the commencement of the present season to obtain an official expression from the United States Government of the policy they proposed to pursue in their treatment of foreign vessels sealing in Behring's Sea, but that these efforts proved altogether unavailing. From Mr. Bayard's communication of the 3rd February, 1887, above referred to, the fair inference, however, was to be drawn that, until the question in dispute between the two Governments as to the legality of the previous seizures had been finally disposed of, no further seizures would be made; and there is no doubt that on the strength of this communication, and in the absence of any explicit statement of policy to the contrary, Canadian citizens did, in the beginning of the present season, embark upon their customary sealing expeditions to Behring's Sea, under the reasonable impression that they would not be interfered with by the United States authorities so long as they conducted their operations in the open sea, only, however, to find their vessels seized, their property confiscated, and their ventures completely ruined.

It is respectfully submitted that this condition of affairs is in the highest degree detrimental to the interests of Canada, and should not be permitted to continue.

For nearly two years Canadian vessels have been exposed to arbitrary seizure and confiscation in the pursuit of a lawful occupation upon the high seas, and Canadian citizens subjected to imprisonment and serious financial loss; while an important and remunerative Canadian industry has been threatened with absolute ruin. This course of action has been pursued by the United States officers in opposition to the contention in the past of their Government in regard to the waters in which these seizures have taken place, in violation of the plainest dictates of international law, and in the face of repeated and vigorous protests of both the Canadian and British Governments.

The Minister advises that Her Majesty's Government be again asked to give its serious and immediate attention to the repeated remonstrances of the Canadian Government against the unwarrantable action of the United States in respect to Canadian vessels in Behring's Sea, with a view to obtain a speedy recognition of its just rights, and full reparation for the losses sustained by its citizens.

The whole respectfully submitted.

(Signed.) GEORGE E. FOSTER,
Minister of Marine and Fisheries.

DEPARTMENT OF FISHERIES, *Ottawa, September 15, 1887.*

[Inclosure 4 in No. 70.]

Mr. Hamley to the Minister of Marine and Fisheries.

CUSTOM-HOUSE, *Victoria, British Columbia, July 26, 1887.*

DEAR SIR: Captain Carroll, master of the American steamer "Olympian," has been taking parties of excursionists to Sitka, and I asked him to see the Judge, Mr. Dawson, and find out something we could trust respecting the seized vessels. Dawson told him he had received no orders whatever for the release of the vessels; they have not been sold, and remain as they were, under seizure. Captain Carroll told Dawson of the telegram dated last January, purporting to have been sent by Mr. Garland, Attorney-General at Washington, in the President's name, ordering the vessels to be released. Dawson said he had heard of it before, and that it
107 must have been as he termed it, a "put up thing," as nothing of the kind had reached either himself or the United States Marshal at Sitka.

The serious part is that our people, trusting to the story of the order for release, have sent thirteen vessels again this year to the sealing grounds. One has been seized already, and if the others fall in the way of the Revenue cutters they will probably be seized also.

I may perhaps learn something more from the Admiral when he returns from Alaska, and, if so, I will write to you again.

Yours, &c.

(Signed.) W. HAMLEY.

[Inclosure 5 in No. 70.—Telegraphic.]

The Attorney-General, Washington, to Judge Lafayette Dawson and M. D. Ball.

WASHINGTON, DISTRICT OF COLUMBIA, *January 26, 1887.*

I am directed by the President to instruct you to discontinue any further proceedings in the matter of the seizure of the British vessels "Carolina," "Onward," and "Thornton," and discharge all vessels now held under such seizure, and release all persons that may be under arrest in connection therewith.

[Inclosure 6 in No. 70.]

Mr. Dawson to Mr. Atkins.

To BARTON ATKINS,
United States Marshal for the District of Alaska.

You are hereby directed to release the vessels "Carolina," "Onward," "Thornton," and "San Diego," which were seized in Behring's Sea for violation of section 1956, United States Statutes, together with their tackle, apparel, skins,* guns, ammunition, small boats, and everything pertaining to said vessels, this 19th day of February, 1887.

(Signed.) LAFAYETTE DAWSON,
District Judge, District of Alaska.

[Inclosure 7 in No. 70.]

Mr. Hamley to the Minister of Marine and Fisheries.

CUSTOM-HOUSE, *Victoria, September 1, 1887.*

SIR: On the 7th August the master of the United States Revenue cutter "Rush" seized in Behring's Sea, 60 miles from any land, the Canadian schooner "Alfred Adams," her register, clearance, guns, and ammunition, and the seal-skins she had taken (1,386) were all taken from her, and the vessel herself ordered to Sitka. No one from the Revenue cutter was put on board by Captain Shepard, and the master of the "Alfred Adams," instead of going, as he was desired, to Sitka, returned to Victoria, arriving here the 31st August.

I forward the master's depositions before a notary public, and what Captain Shepard is pleased to term a certificate of the schooner's seizure, signed by himself. Mr. Drake, a solicitor, is at Sitka, waiting for the cases to be heard in Court. The trial

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* Please note skins.—C. A. M.

was delayed for the arrival of the "Rush," and she was expected about the beginning of this month. Mr. Drake will no doubt report direct to the Minister of Justice.

I have, &c.

(Signed.) W. HAMLEY.

P. S.—I inclose also a sealed letter addressed by Captain Shepard to the District Attorney and United States Marshal at Sitka, which the master of the "Alfred Adams" brought down with him, and which you can deal with in any way you think fit.

W. H.

[Inclosure 8 in No. 70.]

Captain Shepard to the District Attorney and United States Marshal at Sitka.

UNITED STATES REVENUE STEAMER "RUSH,"
Behring's Sea, August 6, 1887.

To whom it may concern:

This will certify that I have this day seized the British schooner "Alfred Adams," of Victoria, British Columbia, Captain W. H. Dyer, master, for violation of law, and have taken charge of his ship's papers, viz., register, shipping articles, clearance, bill of health, and log book; also her arms and seal-skins.

Very respectfully,

(Signed.) L. G. SHEPARD,
Captain, United States Revenue Marine.

[Inclosure 9 in No. 70.]

DECLARATION.

In the matter of the seizure of the Sealing-schooner "Alfred Adams" by the United States Revenue cutter "Richard Rush."

I, William Henry Dyer, of Victoria, British Columbia, master mariner, do solemnly and sincerely declare that—

1. I am the master of the schooner "Alfred Adams," of the port of Victoria, British Columbia, engaged in the business of catching seals. On the 6th August, 1887, while on board the said schooner, and in command of the same, being in latitude 54° 48′ north and longitude 167° 49′ west the United States Revenue cutter "Richard Rush" steamed alongside, lowered a boat commanded by the First Lieutenant and boat's crew. The said Lieutenant came on board the said "Alfred Adams" and ordered me to take the ship's register, log-book, articles, and all others of the ship's papers on board the "Richard Rush." In obedience to his command, I took the said papers and accompanied the said Lieutenant on board the "Richard Rush." When I arrived on board the "Rush," the Captain of the "Rush" asked me what was my business in the Behring's Sea; I replied taking seals. He inquired how many skins I had; I replied 1,386. He then said he would seize the ship, take the skins, guns, ammunition, and spears. I stated I did not think the ship was liable to seizure, as we had never taken a seal within 60 miles of Ounalaska, nor nearer St. Paul's than 60 miles south of it, and that we had never been notified that the waters were prohibited, unless landing and taking them from the Island of St. Paul's. He stated he must obey the orders of his Government, and that our Government and his must settle the matter, and ordered me to proceed on board the said schooner and deliver up my arms, ammunition, and skins and spears. He sent two boats belonging to the "Rush" in charge of the First and Second Lieutenant of the "Rush" respectively, well manned with sailors from the "Rush," who came on board the said schooner (I returning in company with the First Lieutenant). They took from the said schooner 386 skins, 4 kegs powder (3 triple F and 1 blasting powder), 500 shells, 3 cases caps and primers, 9 breech-loading double-barrelled shot-guns, 1 Winchester rifle, all in good order, and 12 Indian spears, and he then gave me a sealed letter addressed to the United States Marshal and United States District Attorney at Sitka; he also gave me an acknowledgment of the goods taken, and also gave me a certificate that the said schooner was under seizure, and, after being alongside for about 3½ hours, I received orders in writing to proceed to Sitka, and report to the United States District Attorney and Marshal: we then parted company. My crew consisted of myself, mate, 2 seamen, 1 Chinese cook, and 21 Indians. Previous to the said seizure we had spoken the schooner "Kate," of Victoria, and had been informed by the mate of

that vessel that the crews (and particularly the Indians) taken to Sitka on schooners previously seized had been very badly treated. The Indians became very mutinous on learning that we were to proceed to Sitka and report to the United States authorities; they declared they would not go to Sitka and, to avoid trouble, I came to Victoria, instead of going to Sitka. I arrived in Victoria on the 31st August, 1887, at about 7 P. M.

109 And I make this solemn Declaration, conscientiously believing the same to be true, and by virtue of the Oaths Ordinance, 1869.

(Signed) W. H. DYER.

Declared before me this 1st day of September, A. D. 1887, at Victoria, British Columbia.

[L. S.] (Signed) H. DALLAS HELMCKEN,
A Notary Public in and for the Province of British Columbia.

[Inclosure 10 in No. 70.]

Messrs. Drake, Jackson, and Helmcken to the Minister of Justice, Ottawa.

VICTORIA, BRITISH COLUMBIA, *September 8, 1887.*

SIR: We have the honour to inform you that we are in receipt of a letter from our Mr. Drake, written from Sitka, under date the 28th August, in which he states that a telegram was received at Sitka relative to the schooners seized last year from the United States Attorney-General Garland, directing their release and discharge of the men. The Judge gave an Order accordingly, which was afterwards rescinded, on the assumption that the telegram was a forgery. No official letter of any sort, either confirming the telegram or respecting the affair, has been received at Sitka. The schooners now seized and at Sitka are the "Anna Beck," "W. P. Sayward," "Dolphin," and "Grace." The "Alfred Adams" was also seized. The trial of the present men, Mr. Drake states, would not take place until after the arrival of the Revenue cutter "Rush;" also that, judging from the past and the views held by the Court, the result would most probably be the same, and urges that immediate steps should be taken to prevent the imprisonment of the masters, and that he would obtain declarations from the masters duly certified, and enter a protest at the trial.

The "Rush" was not expected at Sitka until yesterday.

Regarding the seizure of the "Alfred Adams," we have to state that the schooner has arrived here safely. The declarations of her captain, Captain Dyer, and his men have been duly taken, which her owners, Messrs. Guttman and Frank, of this city, yesterday handed to Honourable Mr. Stanley, Collector of Customs, together with a sealed letter, which the commander of the "Rush" handed to Captain Dyer, to be delivered to the District Attorney at Sitka. These papers no doubt Mr. Stanley has already forwarded to the proper Department.

We have since forwarded a copy of this information to the Right Honourable Sir John A. Macdonald, K. C. B., &c.

We have, &c.

(Signed) DRAKE, JACKSON, AND HELMCKEN.

[Inclosure 11 in No. 70.]

Mr. Burbidge to the Deputy Minister of Fisheries, Ottawa.

DEPARTMENT OF JUSTICE, *Ottawa, September 12, 1887.*

SIR: I have the honour to inclose, for your information, a copy of a letter which has been received by the Minister of Justice from Messrs. Drake, Jackson, and Helmcken, in which they report with reference to the sealing vessels which have been seized in the Behring's Sea by the United States authorities.

I am to state that the Minister of Justice has taken no action with respect to this communication, but that he is of opinion that the Minister of Marine and Fisheries should, at his earliest convenience, take steps to communicate the substance thereof to the Colonial Office and to the British Minister at Washington.

I have, &c.

(Signed) GEO. W. BURBIDGE,
Deputy Minister of Justice.

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No. 71.

The Marquis of Salisbury to Sir L. West.—(Substance telegraphed.)

FOREIGN OFFICE, *October 19, 1887.*

SIR: Information has reached Her Majesty's Government from the Government of Canada that a further seizure has been made of a Canadian vessel, the "Alfred Adams," by the United States Revenue-cutter "Rush," when engaged in seal-fishing in Behring's Sea in latitude 54° 48′ north, and longitude 167° 49′ west, more than 50 miles distant from the nearest land.

I have to request that you will forthwith address a protest to the Government of the United States against this seizure, and against the continuance of similar proceedings on the high seas by the authorities of the United States.

I am, &c.

(Signed) SALISBURY.

No. 72.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *October 20, 1887.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 17th instant inclosing copies of a correspondence received from the Governor-General of Canada relative to the seizures by the authorities of the United States of certain British vessels when engaged in seal-fishing in Behring's Sea.

With reference to the latest case reported, that of the Canadian schooner "Alfred Adams," I am to request that you will inform Sir H. Holland that a telegram has been sent to Her Majesty's Minister at Washington directing him to make a protest to the United States Government against the seizure of that vessel, and the continuance on the high seas of similar proceedings by the authorities of the United States.

With regard to the report that it had been stated by Mr. Bayard that no protest had been made against the right of those authorities to make the seizures, and that it had been therefore assumed that Her Majesty's Government did not really dispute the right, I am to remind you that Sir L. West, acting on the instructions which were given to him by the late Earl of Iddesleigh on the 20th October, 1886, addressed a note to the United States Secretary of State protesting, in the name of Her Majesty's Government, against the seizure of the three Columbian schooners "Thornton," "Onward," and "Carolina" by the United States Revenue-cruizer "Corwin."

I am further to point out that the directions given to Sir L. West in regard to subsequent seizures of other British vessels in Behring's Sea during the present fishing season, which were embodied in Lord Salisbury's despatches of the 10th and 27th ultimo, amount to a protest against the assumption by the United States Government of their right to seize British vessels on the high seas in those waters.

I am to request that in laying this letter before Sir H. Holland you will move him to ascertain by telegraph whether the Report of Mr. Foster (the Canadian Minister of Marine and Fisheries) of the 15th

ultimo has been communicated by Lord Lansdowne, with the papers attached, to Her Majesty's Minister at Washington, as suggested in the Report. On learning that this has been done Lord Salisbury proposes to authorize Sir L. West to give a copy of them to Mr. Bayard.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 73.

Sir L. West to the Marquis of Salisbury.—(Received October 24.)

WASHINGTON, *October 12, 1887.*

MY LORD: In accordance with the instructions contained in your Lordship's telegram of the 27th ultimo, I addressed a note to the Secretary of State, copy of which I had the honour to inclose to your Lordship in my despatch of the 28th ultimo, inquiring the reason why the vessels referred to in his note of the 3rd February last had not been released, and I now inclose copy of the reply which I have received thereto.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

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111 [Inclosure in No. 73.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, October 11, 1887.*

SIR: I have the honour to acknowledge your note of the 28th ultimo, stating that Her Majesty's Government had been officially informed that the British vessels referred to in my note to you of the 3rd February last had not been released, and asking the reason for the delay in complying with the orders of the Executive in that regard.

Upon receiving your note I at once wrote my colleague the Attorney-General, as the Head of the Department of Justice, in order that I might be enabled to reply satisfactorily to your inquiry. I am still without an answer from him, which, when received, shall be promptly communicated to you.

In the meantime, in acknowledging your note, I take occasion to state my impression—that if the three vessels seized, and ordered to be released, have not been repossessed by their owners, it is not because of any hindrance on the part of any official of this Government, or failure to obey the order for release, but probably because of the remoteness of the locality (Sitka) where they were taken after arrest for adjudication, and the proceedings having been *in rem*, the owners have not seen proper to proceed to Alaska and repossess themselves of the property in question.

I have, &c.

(Signed) T. F. BAYARD.

No. 74.

Sir L. West to the Marquis of Salisbury.—(Received October 24.)

WASHINGTON, *October 12, 1887.*

MY LORD: With reference to your Lordship's despatch of the 15th ultimo, respecting the judicial proceedings in the cases of the schooners "Carolina," "Onward," and "Thornton," I have the honour to state that, from what I can ascertain, the notice of appeal in these cases is

still lying in the Sitka Court, for there is no Court to which under the Act of Congress the injured parties could appeal, and as in the case of the American vessel "San Diego," no further steps can be taken in the matter.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 75.

Sir L. West to the Marquis of Salisbury.—(Received October 24.)

WASHINGTON, *October 12, 1887.*

MY LORD: In accordance with the instructions contained in your Lordship's despatch of the 27th ultimo, I addressed a note to the Secretary of State, copy of which I have the honour to inclose herewith, making similar representations respecting the seizure of the British vessels "Grace," "Dolphin," and "W. P. Sayward," as were made in the cases of the "Onward," "Carolina," and "Thornton," and reserving all rights to compensation on behalf of the owners and crew.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 75.]

Sir L. West to Mr. Bayard.

WASHINGTON, *October 12, 1887.*

SIR: In connection with the representation which I was instructed to make to you respecting the seizure of the British schooners "Onward," "Carolina," and "Thornton," by the United States cruizer "Corwin," in Behring's Sea, I have the
112 honour to inform you that I am now further instructed to make similar representations in the cases of the British Columbian vessels "Grace," "Dolphin," and "W. P. Sayward," seized lately by the United States Revenue cutter "Richard Rush," and at the same time, as in the case of the "Onward," "Carolina," and "Thornton," to reserve all rights to compensation on behalf of the owners and crews.

I am also instructed to point out to you that, according to the deposition of the mate of the "W. P. Sayward," copy of which is inclosed, no seals had been taken by her crew in Behring's Sea as is alleged in the libels of information filed on behalf of the United States' District Attorney in the District Court of Alaska.

I am, &c.

(Signed) L. S. SACKVILLE WEST.

No. 76.

Sir L. West to the Marquis of Salisbury.—(Received October 24.)

WASHINGTON, *October 14, 1887.*

MY LORD: I have the honour to inclose to your Lordship herewith copy of the reply which I have received to my note of the 12th instant, copy of which was inclosed in my despatch of the 12th instant, respecting the seizure of the "Grace," "Dolphin," and "W. P. Sayward."

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 76.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, October 13, 1887.*

SIR: I have the honour to acknowledge your note of yesterday in relation to the cases of the seizure of the British schooners "Onward," "Carolina," and "Thornton," in Behring's Sea, by United States Revenue vessels in August 1886, and also your instructions to include by similar representations the cases of the British Columbian vessels "Grace," "Dolphin," and "W. P. Sayward," seized by the United States Revenue authorities in Behring's Sea, with notification that Her Britannic Majesty's Government reserve all right to compensation on behalf of the owners and crews of the above-mentioned vessels.

The affidavit of the mate of the "W. P. Sayward" has been read, and the facts therein stated will be at once investigated.

I have, &c.

(Signed) THOMAS F. BAYARD.

No. 77.

Sir L. West to the Marquis of Salisbury.—(Received October 24.)

WASHINGTON, *October 14, 1887.*

MY LORD: I have the honour to inclose to your Lordship herewith copies of the brief recently filed in the Court at Sitka by the counsel for the United States Government which has appeared in the "New York Herald," as well as an article thereupon from that Journal.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 77.]

Extract from the "New York Herald," October 13, 1887.

OTTAWA, ONTARIO, *October 12, 1887.*

The Government here are in receipt of advices from Sitka which contain the brief which is understood to have been prepared at Washington and recently filed
113 in the Court at Sitka by Mr. A. K. Delaney, as counsel for the United States Government.

The following is a *verbatim* copy of the brief:

"CASE.

"The information in this case is based on Section 1956 of Chapter 3 of the Revised Statutes of the United States, which provides that 'No person shall kill any otter, mink, martin, sable or fur seal, or other fur-bearing animal within the limits of Alaska Territory or in the waters thereof.'

"The offence is charged to have been committed 130 miles north of the Island of Ounalaska, and therefore in the main waters of that part of the Behring's Sea ceded by Russia to the United States by the Treaty of 1867. The defendants demur to the information on the ground—

"1. That the Court has no jurisdiction over the defendants, the alleged offence having been committed beyond the limit of a marine league from the shores of Alaska.

"2. That the Act under which the defendants were arrested is unconstitutional in so far as it restricts the free navigation of the Behring's Sea for fishing and sealing purposes beyond the limits of a marine league from shore. The issue thus raised by the demurrer presents squarely the questions:

"(1) The jurisdiction of the United States over Behring's Sea.

"(2) The power of Congress to legislate concerning those waters.

"THE ARGUMENT.

"The fate of the second of these propositions depends largely upon that of the first, for if the jurisdiction and dominion of the United States as to these waters be not sustained the restrictive Acts of Congress must fall, and if our jurisdiction shall be sustained small question can be made as to the power of Congress to regulate fishing and sealing within our own waters. The grave question, one important to all the nations of the civilized world, as well as to the United States and Great Britain, is 'the dominion of Behring's Sea.'

"THE THREE MILE LIMIT.

"Concerning the doctrine of international law establishing what is known as the marine league belt, which extends the jurisdiction of a nation into adjacent seas for the distance of one marine league, or 3 miles from its shores, and following all the indentations and sinuosities of its coast, there is at this day no room for discussion. It must be accepted as the settled law of nations. It is sustained by the highest authorities, law-writers, and jurists. It has been sanctioned by the United States since the foundation of the Government. It was affirmed by Mr. Jefferson, Secretary of State, as early as 1793, and has been reaffirmed by his successors—Mr. Pickering, in 1796; Mr. Madison, in 1807; Mr. Webster, in 1842; Mr. Buchanan, in 1849; Mr. Seward, in 1862, 1863, and 1864; Mr. Fish, in 1875; Mr. Evarts, in 1879 and 1881; and Mr. Bayard, in 1886. (Wheaton's 'International Law,' vol. i, sec. 32, pp. 100 and 109.)

"Sanctioned thus by an unbroken line of precedents covering the first century of our national existence, the United States would not abandon this doctrine if they could; they could not if they would.

"LANDLOCKED SEAS.

"Well grounded as is this doctrine of the law of nations, it is no more firmly established as a part of the international code than that other principle which gives to a nation supremacy, jurisdiction, dominion over its own inland waters, gulfs, bays, and seas. If a sea is entirely inclosed by the territories of a nation, and has no other communication with the ocean than by a channel, of which that nation may take possession, it appears that such a sea is no less capable of being occupied and becoming property than the land, and it ought to follow the fate of the country that surrounds it. The Mediterranean in former times was absolutely inclosed within the territories of the Romans, and that people, by rendering themselves masters of the strait which joins it to the ocean might subject the Mediterranean to their Empire, and assume the dominion over it. They did not by such proceeding injure the rights of other nations, a particular sea being manifestly
114 designed by nature for the use of the countries and nations that surround it. (Vattel's 'Law of Nations,' pp. 129 and 130.)

"Chancellor Kent, in 1826, before the doctrine as to the marine league limit was as firmly established as it now is, says:

"'It is difficult to draw any precise or determined conclusion amid the variety of opinions as to the distance a State may lawfully extend its exclusive dominion over the seas adjoining its territories and beyond those portions of the sea which are embraced by harbours, gulfs, bays, and estuaries, and over which its jurisdiction unquestionably extends.' (Kent, vol. i, p. 28.)

"JURISDICTION OF STATES.

"It thus appears that, while in 1826 the limit of the marine belt was unsettled, the jurisdiction of a State over its inland waters was unquestioned.

"'In the laws of nations bays are regarded as a part of the territory of the country when their dimensions and configurations are such as to show that the nation occupying the coast also occupies the bay as a part of its territory.' (Manning's 'Law of Nations,' p. 120.)

"'An inland sea or lake belongs to the State in which it is territorially situated. As illustrations, may be mentioned the inland lakes whose entire body is within the United States, and the Sea of Azof.' (Wheaton's 'International Law,' vol. i, sec. 31.)

"'Rivers and inland lakes and seas, when contained in a particular State, are subject to the Sovereign of such State.' (Idem, vol. iii, sec. 300.)

"'Undoubtedly it is upon this principle of international law that our right to dominion over such vast inland waters as the great lakes, Boston Harbour, Long Island Sound, Delaware and Chesapeake Bays, Albemarle Sound, and the Bay of San Francisco rests. This country, in 1793, considered the whole of Delaware Bay to be within our territorial jurisdiction, and it rested its claim upon these authorities, which admit that gulfs, channels, and arms of the sea belong to the people within whose land they are encompassed.' (*Kent's Com.*, vol. i, p. 528.)

"THE DOCTRINE ALWAYS ASSERTED.

"It thus appears that our Government asserted this doctrine in its infancy. It was announced by Mr. Jefferson as Secretary of State and by the Attorney-General in 1793. Mr. Pickering, Secretary of State in 1796, reaffirms it, in his letter to the Governor of Virginia, in the following language: 'Our jurisdiction has been fixed to extend 3 geographical miles from our shores, with the exception of any waters or bays which are so landlocked as to be unquestionably within the jurisdiction of the States, be their extent what they may.' (Wheaton's 'International Law,' vol. i, sec. 32, pp. 2-100.)

"Mr. Buchanan, Secretary of State, to Mr. Jordan, in 1849, reiterates this rule in the following language: 'The exclusive jurisdiction of a nation extends to the ports, harbours, bays, mouths of rivers, and adjacent parts of the sea inclosed by headlands.' (Idem, p. 101.)

"Mr. Seward, in the Senate in 1852, substantially enunciates the same doctrine by declaring that, if we relied alone upon the old rule that only those bays whose entrance from headland to headland do not exceed 6 miles are within the territorial jurisdiction of the adjoining nation, our dominion to all the larger and more important arms of the sea on both our Atlantic and Pacific coasts would have to be surrendered. Our right to jurisdiction over these rests with the rule of international law which gives a nation jurisdiction over waters embraced within its land dominion.

"BEHRING'S SEA INLAND WATER.

"It thus appears that from our earliest history, contemporaneously with our acceptance of the principle of the marine league belt and supported by the same high authorities is the assertion of the doctrine of our right to dominion over our inland waters under the Treaty of 1867, and on this rule of international law we base our claim to jurisdiction and dominion over the waters of the Behring's Sea. While it is, no doubt, true that a nation cannot by Treaty acquire dominion in contravention of the law of nations, it is none the less true that, whatever title or dominion our grantor, Russia, possessed under the law of nations at the time of the Treaty
115 of Cession in 1867, passed and now rightfully belongs to the United States.

Having determined the law, we are next led to inquire as to whether Behring's Sea is an inland water or a part of the open ocean, and what was Russia's jurisdiction over it.

"Behring's Sea is an inland water. Beginning on the eastern coast of Asia, this body of water, formerly known as the Sea of Kamchatka, is bounded by the Peninsula of Kamchatka and Eastern Siberia to the Behring's Strait. From the American side of this strait the waters of the Behring Sea wash the coast of the mainland of Alaska as far south as the Peninsula of Alaska. From the extremity of this peninsula, in a long, sweeping curve, the Aleutian Islands stretch in a continuous chain almost to the shores of Kamchatka, thus encasing the sea.

"RUSSIA'S TITLE AND DOMINION.

"It will not be denied that at the time the United States acquired the Territory of Alaska by the Treaty of 1867, the waters of the Behring's Sea washed only the shores of Russian territory. The territory on the Asiatic side she had possessed 'since the memory of man runneth not to the contrary.' Her title to the other portions of those shores and her dominion over the waters of the Behring's Sea are based on 'discovery and settlement.'

"POSSESSION AND SUPREMACY.

"The right of a nation to acquire new territory by discovery and possession has been so universally recognized by the law of nations that a citation of authorities is scarcely necessary. Upon this subject the most eminent as well as the most conservative of authorities says: 'All mankind have an equal right to things that have not yet fallen into the possession of any one, and those things belong to the person who first takes possession of them. When, therefore, a nation finds a country uninhabited and without an owner, it may lawfully take possession of it, and after it has sufficiently made known its will in this respect it cannot be deprived of it by another nation.'

"'Thus navigators going on voyages of discovery, furnished with a commission from their Sovereign, meeting islands or other lands in a desert state, have taken possession of them in the name of their nation, and this title has been usually respected, provided it was soon followed by a real possession.' 'When a nation takes possession of a country to which no prior owner can lay claim, it is considered as acquiring the empire or sovereignty of it at the same time with the domain.' 'The whole space over which a nation extends its government becomes the seat of its *jurisdiction and is* called its territory.' (Vattel, p. 98.)

"Such being the law, we are led to inquire as to on what discoveries, possessions, and occupation Russia's right to dominion in North America is based.

"HISTORICAL SKETCH—. 1725-1867.

"In 1725, under the commission of that wondrous combination of iron and energy, Peter the Great, an expedition was organized, crossed the continent from St. Petersburgh to Kamchatka, where a vessel was constructed, and in July 1728 sailed for explorations to the north and east. That vessel was the 'Gabriel.' Her master was Vitus Behring, a name destined to historical immortality. On the expedition Behring crossed the waters of the Sea of Kamchatka, discovered and named the Island St. Lawrence midway between which and the Asiatic mainland our boundary-line is laid down by the Treaty, and after passing through the straits which bear his name returned to St. Petersburgh.

"In 1733 a second expedition was organized under the auspices of the Government and the commission of Queen Anne, and with Behring, raised to the rank of Admiral, at its head, repeated the long and dreary journey across Siberia, and in June 1741 sailed for new discoveries. In July of that year Behring sighted the American continent, some authorities claim at the 58th degree of north latitude, others at the 50th degree. The latter is probably correct, as it rests on the authority of Stellar, who accompanied the expedition, and Behring undoubtedly sailed as far south along the American coast as the 45th parallel, in accordance with his instructions. But what is more pertinent to this inquiry, he discovered several of the Aleutian Islands and the Komanderoff group or couplet. On the larger of this couplet, which bears his name, the hardy navigator, after shipwreck, died on the 19th December, 1741.

116 "RUSSIAN DISCOVERY.

"But the spirit of Russian discovery survived him, and from the starting point he began traders, hunters, and adventurers made their way from island to island until the whole Aleutian chain, and with it the mainland, was discovered. In 1743, 1745, 1747, and 1749 a Cossack sergeant named Bossof made four consecutive voyages from the mainland of Kamchatka to the Behring and Copper Islands in vessels of his own construction. In 1745 a sailor named Nevidchinof, who had served under Behring, crossed the channel which connects the North Pacific Ocean with the Behring's Sea and discovered the Islands of Attoo and Agatoo, the former of which now marks the western limit of our land dominion. In 1744 a small Russian merchant-vessel reached the Island of Atka and some of the smaller islands surrounding it.

"Ten years later Glottoff, in a ship belonging to an Okotsk merchant, advanced as far as the Island of Ounak, and subsequently discovered Ounalaska and the whole of that group of the Aleutian chain known as the Fox Islands.. He made a Map of his explorations, which includes eight islands east of Ounalaska. In 1760 a Russian merchant, Adreian Tolstyk, landed on the Island of Adak, explored it and some of the surrounding islands, and made a report of his discoveries to the Russian Crown. This group was named after him, the Adreian Islands. The next year a ship belonging to a Russian merchant named Bechevin made the coast of the Alirska Peninsula, and in the autumn of 1762 Glottoff, who discovered Ounalaska and the Fox Group, reached the Island of Kodiak. In 1768 two captains of the Imperial Navy, Krenitzen and Levashoff, sailed from Kamchatka in two Government vessels, and the former passed the succeeding winter at Kodiak, and the latter at Ounalaska.

"Twenty-five years succeeding the death of Behring the spirit of discovery had planted the Russian ensign along the entire Aleutian chain, from Behring's Island to the mainland of the North American continent.

"AFTER THE SEALS.

"Possession and occupation followed the footsteps of discovery, and settlements and trading posts were established at the more favourable points along the line. Expeditions, stimulated by the large remunerations of the fur traffic, were constantly fitted out at the ports along the shores of the Sea of Okotsk and the mouth of the Amoor River for voyages of trade and exploration in the new country. Lieutenant Elliot, in his Report on the seal islands, published with the Tenth Census of the United States, estimates that no fewer than twenty-five different Companies, with quite a fleet of small vessels, were thus employed as early as 1772. Under the auspices of one of these Companies, Shekeloff, a merchant of Rylsk, founded the first permanent Settlement on the Island of Kodiak in 1784. From this point exploring expeditions were sent out, one of which crossed the strait between Kodiak and the mainland which bears Shekeloff's name, and explored the coast of the mainland as far as Cook's Inlet, upon the shores of which in 1786 a Settlement was established.

"Another pushed along the coast to Prince William Sound and Cape St. Elias, the latter of which was located by Behring in 1741. In 1788 another of Shekeloff's ships visited Prince William Sound, discovered Yakutat Bay, and made a thorough exploration of Cook's Inlet. In the meantime, in 1786, Gehrman Pribylov, a Muscovite ship's mate, sailed from Ounalaska in a small sloop called the "St. George," discovered the islands which bear his name, located in the heart of the Behring's Sea, and now far famed as the only seal rookeries in the known world.

"BARANOFF'S MISSION.

"In 1790 the Shekeloff Company placed at the head of all enterprises in the new country that restless spirit whose energies clinched Russia's dominion to her possessions in North America, Alexander Baranoff. Arriving at Kodiak, he changed the head-quarters of the Company to the harbour of St. Paul, where the village of that name now stands, and the next year one of his skippers passed round the extremity of the Alaska Peninsula and along the north-western coast to Bristol Bay, discovering Kvichak River and the Lake Llamna, and crossed the portage to the mouth of Cook's Inlet, thus finding the safest and quickest means of communication between Shekeloff Strait and the Behring's Sea.

"In 1794 Baranoff established a ship-yard at Resurrection Bay, on Prince Willliam Sound. About this time the first missionaries of the Greek Church arrived, and
117 Missions were established at Kodiak, Ounalaska, and Spruce Island. The next year Baranoff extended his operations and trading posts to Yakutat Bay. Following this was the consolidation of all Russian interests in North America, giving rise to the Russian-American Company, which was chartered the year that Baranoff founded Sitka, 1799. The possessions and supremacy Russia gained under this Corporation have been so universally acknowledged and widely understood as to scarcely need comment. Under this Company, chartered by the Crown, patronized by nobility, sustained by the sinews of consolidated capital, and led by the tireless energy of Baranoff, new explorations and Settlements inevitably followed.

"As early as 1806, aside from trading posts and Settlements along the Aleutian Islands, we find the Russian-American Company had established fourteen fortified stations from Kodiak to the Alexander Archipelago, now known as South-eastern Alaska—one at Three Saints Harbour, one at St. Paul Island, one on the Island of Kodiak, one off Afognak Island, one at the entrance of Cook's Inlet, three on the coats of the inlet, two on Prince William Sound, one at Cape St. Elias, two on Yakutat Bay, and one at New Archangel, on the Bay of Sitka.

"ALONG THE COAST.

"After the death of Baranoff, in 1819, his successor in charge of the affairs of the Company, Lieutenant Yanovsky, made extensive explorations of the coast and mainland above the Alaska Peninsula. One expedition explored and made a preliminary survey of the coast from Bristol Bay as far as the mouth of the Kuskovim River, discovering and locating that stream and also the Island of Nunivak, on parallel 60th degree, in Behring's Sea. Another passed beyond the mouth of the Yukon to Norton's Sound, and another entered the Nushegak River just above Bristol Bay, pushed into the interior, and crossed the mountains and tundras into the valley of the Kuskovim. Following these, in 1824 and 1826, were the explorations and surveys of Ethloin and Luedke, further north on the coast of the mainland.

"In 1824 that eminent divine of the Greek Church, Bishop Veniamanoff, visited the coast between Bristol Bay and the Kuskovim, establishing Missions, chapels, and churches. Previous to this time, in 1815, Lieutenant Kotzebue, under the patronage of Count Rumiantzo, had discovered and surveyed Kotzebue Sound and the Arctic coast of America as far as Cape Lisburne. Lieutenant Tebenkof, of the navy, in 1835 established Missions and redoubts at St. Michael's, on the Norton Sound, and in 1838 an expedition fitted out by him located Point Barrow. Meanwhile, expeditions had penetrated into the interior. Glazunof ascended the Yukon as far as Nulato, and made the first portage between that river and the Kuskovim in 1836, while Malakof reached the same point from the redoubt established by Veniamanoff on the Nushegak, by way of that river and the Kuskovim.

"They were followed by Lieutenant Zagoskin, of the Imperial Navy, who in 1842–43 with five assistants made extensive explorations of basins of the Yukon and Kuskovim, a voluminous journal of which is now in print.

"UNBROKEN POSSESSION.

"This brings us to the close of the first century of Russian discoveries and occupation in North America. It is needless to follow further, as the twenty-five years intervening between 1842 and the date of the Treaty of the United States are but a continuation and repetition of Russian occupation and supremacy of this territory. *That possession* was never changed or broken until it passed to the United States

under the Treaty of 1867. The archives of Russia will further show that the Imperial Government itself not only fostered these discoveries, but from the earliest period has asserted and exercised dominion over the North American possessions.

"The discoveries of Behring in 1728–41 were under Royal Commission. In 1766 Tolstyk, after his discovery of the Adreian group of the Aleutian chain, was granted special privileges in the new possessions by an Edict of Catherine II. The expedition of Krentzen, of the Imperial Navy, to Ounimak Island in 1758 was under commission of the same Sovereign. Upon the Report of the Committee of Commerce and the recommendation of the Governor-General of Siberia in 1768, Shelikof was granted a credit from the Public Treasury of 200,000 roubles to carry forward his enterprises in North America. By a Ukase of Catherine II in 1793 Missions of the Greek Church were established in the new dominion, and a Colony was also founded at Kodiak under Royal Edict.

118 "THE RUSSIAN-AMERICAN COMPANY.

"The Charter of the Russian-American Company issued in 1799 declares Russia's dominion in the following language: 'By the right of discovery in past times by Russian navigators of the north-western part of America, beginning from the 55th degree of north latitude and the chain of islands extending from Kamchatka to America and southward to Japan, graciously permit the Company to have the use of all hunting grounds and establishments now existing on the north-western coast of America, from the above-mentioned 55th degree to Behring's Strait, and on the same on the Aleutian Kurile Islands situated on the north-eastern ocean.'

"In conclusion, the Charter enjoins: 'All military and civil authorities in the above-mentioned localities not only not to prevent the Company from enjoying to the fullest extent the privileges granted, but in case of need to protect them with all their power from loss or injury, and render them, upon application of the Company, all aid, assistance, and protection.'

"This assertion of dominion by Russia was reiterated in 1820, when, by an Imperial Ukase, Alexander I granted the second Charter to the Russian-American Company, renewing its privileges for twenty years, and was again asserted in 1844 by the granting of the third Charter, which not only increased the privileges of the Company, but also provided a system of colonial government for the Russian-American colonies for the twenty succeeding years.

"RUSSIAN ORDINANCE OF 1821.

"All these assertions of jurisdiction and dominion passed unchallenged, but in 1821 the Imperial Government had issued an Ordinance regulating traffic in its Asiatic and American possessions, and reserved exclusively to subjects of the Russian Empire 'the transaction of commerce, the pursuit of whaling and fishing, or any other industry, on the islands in the harbours and inlets, and in general along the north-western coast of America, from Behring's Strait to the 51st parallel of north latitude and in the Aleutian Islands, and along the coast of Siberia and on the Kurile Islands, from Behring's Strait to the south-eastern promontory of the Island of Urup—viz., as far south as latitude 45° and 50° north.'

"This Ordinance called forth the protests of the United States and Great Britain, and protracted discussions followed. A critical examination of the diplomatic correspondence between the United States and Great Britain on one side and Russia upon the other will disclose that the points in dispute in the controversy were the assertion of Russia to exclusive jurisdiction over the Pacific Ocean, the assertion of dominion over the coast of North America from the 55th parallel south to the 51st. (See note of Mr. Adams, American Minister to Russia, to the Russian Minister, March 1822.)

"Following these discussions came the Treaty of 1824 between Russia and the United States, and the analogous Treaty of 1825 between Russia and Great Britain. By these Treaties, Russia receded from her assertion of exclusive jurisdiction over the Pacific Ocean, and abandoned her claim to possessions on the coast of North America, south of 54° 40′.

"THE TREATY.

"The following are the Articles of the Treaty between the United States and Russia germane to the questions involved in the case:

"'ARTICLE I.

"'It is agreed that in any part of the great ocean commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in fishing,

or in the power of resorting to the coasts upon points which may not already have been occupied for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles.

"'ARTICLE II.

"'With a view of preventing the rights of navigation and of fishing exercised upon the great ocean by the citizens and subjects of the High Contracting Powers from becoming the pretext of an illicit trade, it is agreed that the citizens of
119 the United States shall not resort to any point where there is a Russian establishment without the permission of the Governor or Commander, and that reciprocally the subjects of Russia shall not resort without permission to any establishment of the United States upon the north-west coast.

"'ARTICLE III.

"'It is, moreover, agreed that hereafter there shall not be formed by the citizens of the United States, or under authority of the said States, any establishment upon the north-west coast of America, nor in any of the islands adjacent to the north of 54° 40′ north latitude, and that in the same manner there shall be none formed by the Russian subjects, or under the authority of Russia, south of the same parallel.

"'ARTICLE IV.

"'It is, nevertheless, understood that during a term of ten years, counting from the signatures of the present Convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbours, and creeks upon the coast mentioned in the preceding Article, for the purpose of fishing and trading with the natives of the country.' (Wheaton's 'International Law,' vol. i, pp. 2–112.)

"The Treaty between Russia and Great Britain contains substantially the same provisions. Neither in the Treaties nor in the correspondence is any reference made to Russia's claim of dominion over the Behring's Sea. If in the diplomatic correspondence leading up to the Treaty any challenge as to the jurisdiction of Behring's Sea had been made, why was it not settled by the Treaties? Did the High Contracting Powers to these Treaties enter into a discussion lasting nearly two years as to one matter and make adjustment by Treaty as to other matters?

"The Convention between Russia and Great Britain, aside from disposing of the question of Russia's asserted sovereignty over the Pacific Ocean and fixing the southern limit of her possession on the western coast of North America, also established the dividing line of their respective North American possessions from 54 40 north to the frozen ocean, which boundary-line is incorporated *verbatim* into the Treaty of Cession of 1867 from Russia to the United States. (Treaty of 1867, Article I.)

"If differences existed as to the dominion of the Behring's Sea, why were they not also settled, as that manifestly would be a part of the object of holding the Convention?

"RUSSIA'S JURISDICTION.

"It cannot be successfully maintained that by such terms as the 'Great Ocean,' the 'Pacific Ocean,' or the 'South Sea,' the High Contracting Powers referred to the Behring's Sea. Aside from this, it is stipulated in both Treaties that the ships, citizens, and subjects of either Power may reciprocally frequent the interior seas, gulfs, harbours, and creeks of the other on the North American coast for a period of ten years. The only interior sea on the North American coast was the Behring's Sea held by Russia. If that was a part of the 'Pacific Ocean,' or the 'Great Ocean,' or the 'South Sea,' or belonged to the high seas under the law of nations, why the term 'interior sea,' and why should the United States and Great Britain accept a ten years' limit of the right of navigation, fishing, and trading in an interior sea if they had the unconditional right to frequent those waters under the law of nations?

"This section of the Treaty, therefore, really concedes Russia's dominion over Behring's Sea. Chancellor Kent alludes to this subject as the 'claim of Russia to sovereignty over the Pacific Ocean north of the 51st degree of latitude.' (Kent, vol. i, p. 28.)

"A summary of results following the discussions and Conventions as to the Royal Ordinance of 1821 is the abandonment by Russia of her claim to sovereignty over the Pacific Ocean; a surrender of her claim to the North American coast south of 54° 40′; a settlement by Russia and Great Britain as to the boundary-line of their possessions in North America; agreements as to settlements upon each other's territory and navigation of each other's waters, but no surrender of Russia's jurisdiction over the Behring's Sea.

120 "POWERS OF CONGRESS.

"Upon this branch of the subject, the power of Congress over Behring's Sea, there seems to be little room for discussion. The power of a nation to control its own dominions is one of the inherent elements of sovereignty.

"'When a nation takes possession of certain parts of the sea, it takes possession of the empire over them as well as of the domain, on the same principles which are advanced in treating of the land. These parts of the sea are within the jurisdiction of the nation and a part of its territory; the Sovereign commands them; he makes laws and may punish those who violate them; in a word, he has the same rights there as on the land, and in general, every right which the laws of the State allow him.' (Vattel's 'Law of Nations,' p. 130.)

"By the Treaty of 1867, 'the cession of territory and dominion therein made is declared to be free and unencumbered by any reservations, privileges, franchises, grants, or possessions, ... and conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominion and the appurtenances thereto.' (Treaty, Article VI.)

"The Constitution of the United States declares that all Treaties made under the authority of the United States shall be the supreme law of the land. (Constitution of the United States, Article 6.)

"That same instrument vests in Congress 'the power to make all needful rules and regulations respecting the territory or other property belonging to the United States.' (Constitution of the United States, Article 4, section 3.)

"Manifestly, the Acts of Congress contained in chapter 3, Revised Statutes of the United States, 'relating to the unorganized Territory of Alaska,' and under which the information is brought, are embraced within these constitutional provisions.

"CONCLUSION.

"The foregoing record may contain but a meagre idea of the indomitable energy and perseverance displayed by the Russian people in acquiring empire in North America, beginning with discoveries of Behring in 1728, and extending for more than a century and a quarter, wherein they braved the perils of land and sea, overcame a savage native population, faced ice and snow, storm and shipwreck, to found and maintain empire on these rugged shores. Enough has been said to disclose the basis of Russia's right to jurisdiction of the Behring's Sea under the law of nations, viz., original possession of the Asiatic coast, followed by discovery and possession of the Aleutian chain and the shores of Alaska North, not only to Behring's Strait but to Point Barrow and the frozen ocean, thus inclosing within its territory, as within the embrace of a mighty giant, the islands and waters of Behring's Sea, and with this the assertion and exercise of dominion over land and sea.

"Such is our understanding of the law, such is the record. Upon them the United States are prepared to abide the Judgments of the Courts and the opinion of the civilized world."

[Inclosure 2 in No. 77.]

Extract from the "New York Herald," October 13, 1887.

THE ALASKAN SEAL FISHERIES.—The "Herald" lays before its readers this morning the grounds on which the United States claims exclusive jurisdiction over the seal fisheries of Behring's Sea, as set forth in the brief of the counsel for this country in the case against certain British vessels charged with violating our rights.

The plea in defence is that the United States has no dominion over the waters of Behring's Sea beyond a marine league, or 3 miles, from the Alaskan shore. But this view cannot be sustained. As is shown by numerous authorities cited in Counsellor Delaney's brief, it is a recognized principle of international law, and one which this country has always asserted, that a nation has jurisdiction not only over waters within the marine league, but all waters, whatever their extent, embraced within its land dominion. Gulfs, bays, and arms of the sea belong to the country within whose land they are encompassed.

Now Behring's Sea is not a part of the open or high sea. It is, as Mr. Delaney clearly shows, "an inland water cut off from the ocean and essentially land-locked."

Before the purchase of Alaska by the United States in 1867 it was within the
121 exclusive jurisdiction of Russia. By that purchase it passed into the exclusive jurisdiction of the United States, which succeeded to the title of Russia.

No. 78.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *October 26, 1887.*

SIR: With reference to my despatch of the 19th instant, requesting you to protest to the United States Government against the seizure of the British sealing schooner "Alfred Adams" in Behring's Sea, I have to instruct you to give the United States Secretary of State a copy of the Report, and inclosures, which was drawn up by Mr. Foster, the Canadian Minister of Marine and Fisheries, on the 15th ultimo.

I understand that this document has been communicated to you by the Governor-General of Canada, and a copy was inclosed in the letter from the Colonial Office of the 17th instant.

I am, &c.

(Signed) SALISBURY.

No. 79.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *October 29, 1887.*

SIR: I have received your despatch of the 14th instant, inclosing a note from Mr. Bayard, in which he expresses regret that the orders of the President of the United States for the release of the vessels "Carolina," "Onward," and "Thornton" should have been delayed through misconception, and states that renewed orders have been forwarded for their liberation.

I approve your action in having forwarded a copy of this note to the Governor-General of Canada.

I am, &c.

(Signed) SALISBURY.

No. 80.

Sir L. West to the Marquis of Salisbury.—(Received October 31.)

WASHINGTON, *October 20, 1887.*

MY LORD: I have the honour to inclose your Lordship herewith copy of a note which, upon the receipt of your Lordship's telegram of the 19th, I addressed to the Secretary of State protesting against the seizure of the Canadian vessel "Alfred Adams" in Behring's Sea, and against the continuation of similar proceedings by the United States authorities on the high seas.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 80.]

Sir L. West to Mr. Bayard.

WASHINGTON, *October 19, 1887.*

SIR: I have the honour to inform you that I am instructed by the Marquis of Salisbury, Her Majesty's Principal Secretary of State for Foreign Affairs, to protest against the seizure of the Canadian vessel "Alfred Adams" in Behring's Sea, and against the continuation of similar proceedings by the United States authorities on the high seas.

I have, &c. (Signed) L. S. SACKVILLE WEST.

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122 No. 81.

Sir L. West to the Marquis of Salisbury.—(Received November 14.)

WASHINGTON, *October 23, 1887.*

MY LORD: With reference to my despatch of the 20th instant, in which I had the honour to inclose copy of the note which, according to instructions, I addressed to the United States Government on the subject of the seizure of the "Alfred Adams" in Behring's Sea, I have the honour to transmit herewith copy of Mr. Bayard's reply, in which he acknowledges the receipt of my above-mentioned communication.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 81.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, October 22, 1887.*

SIR: I had the honour to receive last evening your note of the 19th instant, conveying the instructions addressed to you by the Marquis of Salisbury, that you should protest against the seizure of the Canadian vessel "Alfred Adams" in Behring's Sea, and against the continuance of similar proceedings by the United States authorities on the high seas, and I have, &c.

(Signed) T. F. BAYARD.

No. 82.

Colonial Office to Foreign Office.—(Received November 21.)

DOWNING STREET, *November 19, 1887.*

SIR: With reference to previous correspondence, I am directed by Secretary Sir Henry Holland to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a Minute of the Executive Council of British Columbia respecting the value to that province of the sealing industry on Behring's Sea.

I am to ask what answer should be returned to Lord Lansdowne, and to suggest that copies of these papers should be forwarded to Her Majesty's Minister at Washington.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 82.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, OTTAWA, *October 20, 1887.*

SIR: I have the honour to transmit to you a copy of an approved Report of a Committee of the Privy Council, to which is appended a copy of a despatch from his Honour the Lieutenant-Governor of British Columbia, covering a Minute of his Executive Council setting forth the value to British Columbia of the present sealing industry in Behring's Sea.

You will observe that the Executive Council of British Columbia consider that the rights of British subjects, as regards the Behring's Sea, should be included in the scope of the duties of the International Fisheries Commission.

I have, &c. (Signed) LANSDOWNE.

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122 [Inclosure 2 in No. 82.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 15th October, 1887.

The Committee of the Privy Council have had under consideration a despatch, dated 15th September, 1887, from the Lieutenant-Governor of British Columbia, covering a Minute of his Executive Council setting forth the value to British Columbia of the present sealing industry in Behring's Sea, together with the opinion of the Executive that the rights of British subjects should have the same protection and consideration on the Pacific as on the Atlantic, and that these rights as regards the Behring's Sea should be included in the scope of the duties of the International Commission in process of organization.

The Minister of Marine and Fisheries, to whom the despatch and inclosures were referred, recommends that a copy of the despatch referred to, with its inclosures, be transmitted to Her Majesty's Government.

The Committee advise that your Excellency be moved to transmit a copy of the papers herein mentioned to the Right Honourable the Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council for Canada.

[Inclosure 3 in No. 82.]

Lieutenant-Governor Nelson to the Secretary of State, Ottawa.

HARRISON HOT SPRINGS, BRITISH COLUMBIA, *September 15, 1887.*

SIR: I have the honour to transmit herewith a copy of a Minute of my Executive Council, approved by me on the 9th instant, representing the value to the Province of British Columbia of the present sealing industry in Behring's Sea, the number of vessels, men, &c., engaged in the same, the loss to the province certain to ensue from the destruction of this trade by the seizures and confiscations made by the United States cruizers.

That the rights of British subjects should have the same protection and consideration on the Pacific as on the Atlantic, and that full compensation and redress for injuries already received, and assurances of future non-interference, should be obtained from the United States Government.

That this question should be included in the scope of the duties of the International Fishery Commission now understood to be in process of organization, and that it is desirable said Commission should hold some of its sittings in Victoria, for reasons therein set forth, &c.

I have, &c. (Signed) HUGH NELSON.

[Inclosure 4 in No. 82.]

PROVINCE OF BRITISH COLUMBIA.

Report of a Committee of the Honourable the Executive Council, approved by his Honour the Lieutenant-Governor on the 9th September, 1887.

On a Memorandum from the Honourable the Minister of Finance and Agriculture, dated the 6th September, 1887, setting forth—

That there are usually engaged in seal-fishing in Behring's Sea seventeen vessels wholly owned by people residing in this city, of the aggregate value of 125,000 *dollars;*

That the outfit for each semi-annual voyage of these vessels represents an expenditure of 75,000 dollars, equal to 150,000 dollars a-year;

That each of these vessels, on an average, employs a crew of five whites and about twenty Indians, or fifteen to eighteen whites as hunters;

124 That the probable aggregate value of the product of each voyage is 200,000 dollars, or 400,000 dollars a-year;

That this industry, though as yet only in its infancy, is a very important one for so small a community;

That the glaring and unlawful seizures and confiscations in Behring's Sea during last season and the present year are completely crushing out this infant industry, and causing ruin, and, in several known instances, actual distress, to those who have invested their all in the business and relied upon it for a livelihood;

That the destruction of this industry not only entails ruin and distress upon those directly engaged therein, but it affects most injuriously the trade of the province, and drives from these waters a race of hardy and adventurous fishermen, who, with their families, are large consumers, and who would in time become a very important element of strength, if not the nucleus of the future navy of Canada on the Pacific.

That the rights and interests of British subjects, whether in fisheries or commerce, are entitled to the same consideration and protection on the Pacific as on the Atlantic, and that it is therefore the duty of the Dominion Government to employ every proper means for obtaining immediate and full compensation and redress for past injuries and wrongs, as well as to guard against the possibility of a repetition of these high-handed outrages in the future;

That it is believed to be desirable that this question should be included in the scope of the duties of the International Commission now understood to be in process of organization for the settlement of the fishery disputes existing between Canada and the United States of America; and it is considered most important that the said Commission should hold one or more of its sittings in this city, in order that those more directly acquainted with and interested in the Pacific fisheries may have a better opportunity of being heard and making the Commissioners more thoroughly acquainted with the subject than would otherwise be possible:

The Committee advise approval, and that a copy of this Minute be fowarded to the Honourable the Secretary of State for Canada [*sic*].

Certified,

(Signed) JNO. ROBSON, *Clerk, Executive Council.*

No. 83.

The Marquis of Salisbury to the British Plenipotentiaries at the Fisheries Conference.—(*Substance telegraphed.*)

FOREIGN OFFICE, *November 28, 1887.*

GENTLEMEN: I received on the 26th instant a telegram from Mr. Chamberlain, inquiring whether a proposal for an International Conference in regard to the Behring's Sea fisheries had been accepted by Her Majesty's Government.

You are aware, from the correspondence which is in your possession, that communications with reference to a proposal which would appear to have been addressed to some of the Maritime Powers by the United States for an International Convention for the protection of seals in the Behring's Sea, were received last October from the German and Swedish Chargés d'Affaires in London.

No definite invitation, however, for an international understanding on this question has yet been received from the Government of the United States by Her Majesty's Government.

In answer to a question from Mr. Phelps, I have expressed myself as being favourably disposed to negotiating for an agreement as to a close season in all seal fisheries, to whomsoever belonging, but I carefully separated the question from all controversies as to fishery rights.

I am, &c.

(Signed) SALISBURY.

125 No. 84.

The Marquis of Salisbury to the British Commissioners to the Fisheries Conference.

FOREIGN OFFICE, *November 29, 1887.*

GENTLEMEN: I transmit herewith for your information, a copy of a letter from the Colonial Office,* and its inclosures, calling attention to the value to British Columbia of the present sealing industry in Behring's Sea.

The Executive Council of the Colony express a desire that this question should be included in the scope of the duties of the Fisheries Conference now sitting at Washington.

A copy of the reply which has been returned to the Colonial Office is also inclosed herewith.†

I am, &c.

(Signed) SALISBURY.

No. 85.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *November 29, 1887.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 19th instant, with its inclosures, showing the value to British Columbia of the present sealing industry in Behring's Sea.

His Lordship notes the opinion expressed in the Minute of the Executive Council of the Colony that this question should be included in the scope of the duties of the Fisheries Conference now sitting at Washington.

I am now to request that, in laying this letter before Secretary Sir H. Holland, you will state to him that copies of Lord Lansdowne's dispatch of the 20th ultimo, and of its inclosures, will be forwarded to the British Plenipotentiaries at the Conference.

I am also to call attention to the instructions in regard to this subject contained in Lord Salisbury's dispatch of the 24th ultimo to the British Plenipotentiaries.‡

It was then stated that "the question of the seal fisheries in the Behring's Sea . . . has not been specifically included in the terms of reference; but you will understand that if the United States Plenipotentiaries should be authorized to discuss that subject, it would come within the terms of the reference, and that you have full power and authority to treat for a settlement of the points involved in any manner which you may deem advisable, whether by a direct discussion at the present Conference or by a reference to a subsequent Conference to adjust that particular question."

Lord Salisbury would suggest, for Sir H. Holland's consideration, that the substance of these instructions should be communicated to the Governor-General of Canada.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

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*No. 82. †No. 85. ‡See "United States No. 1 (1888)."

No. 86.

Mr. J. Chamberlain, M. P., to the Marquis of Salisbury.—(Received December 12.)

WASHINGTON, *November 28, 1887.*

MY LORD: I have received your Lordship's telegram of this day's date, in reply to mine of the 25th instant.

In explanation of the circumstances which led me to address to your Lordship the inquiry contained in my telegram, I should state that Mr. Angell, one of the United States Plenipotentiaries at the Fishery Conference, stated to me, in the course of a private and confidential conversation, that an invitation had been conveyed to your Lordship, on behalf of the United States, to take part in an International
126 Conference for the protection of the seal fisheries in the Behring's Sea, and that your Lordship had cordially accepted this invitation.

I may add that the question of the seal fishery in the Behring's Sea has not yet arisen for discussion at the sittings of the Conference.

I have, &c.

(Signed) J. CHAMBERLAIN.

No. 87.

Colonial Office to Foreign Office.—(Received December 26.)

DOWNING STREET, *December 26, 1887.*

SIR: I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding revised claims made by the owners of the "Thornton" and "Carolina" for losses sustained on account of the seizure of these vessels by a United States Revenue vessel in Behring's Sea.

The revised claim of the owners of the "Onward," the other vessel seized in 1886, has not yet been received, but Lord Salisbury will know whether it will be advisable to wait for it before putting forward the "Thornton" and "Carolina" claims.

I am to request that the inclosures in Lord Lansdowne's despatch, which are sent in original, may be returned when done with.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 87.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, *Ottawa, December 2, 1887.*

SIR: With reference to your despatch of the 14th September last on the subject of the seizure of British sealing-vessels in Behring's Sea by United States Revenue cruizers, and directing attention to the magnitude of the claims for compensation preferred by the owners against the United States Government, I have the honour to forward herewith a copy of an approved Report of a Committee of the Privy Council, submitting a revised Statement of the losses sustained in the cases of the "Thornton" and "Carolina." My Minister of Marine and Fisheries considers that the claims now made are not unreasonable.

You will observe that whereas the amount at first claimed in respect of the seizure of these two vessels was 102,223 dollars, the amount now claimed is 71,130 dol. 66 c.

In the case of the "Onward," the third vessel seized, the claim has not yet been returned by the owners.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 2 in No. 87.]

Certified Copy of a Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 29th November, 1887.

The Committee of the Privy Council have had under consideration a despatch, dated the 14th September, 1887, from the Right Honourable the Secretary of State for the Colonies, on the subject of the seizure of British sealing-vessels in Behring's Sea by United States Revenue cruizers, and directing attention to certain claims for compensation against the United States Government.

The Minister of Marine and Fisheries, to whom the despatch and inclosures were referred, stated that the claims (three in number) referred to in this despatch
127 were sent back to the owners of the vessels for revision. In the cases of two of these, the "Thornton" and "Carolina," a full and detailed revised Statement of the losses is submitted herewith. These, the Minister submits, are not unreasonable; the claim for the "Onward," the third vessel seized, has not yet been returned by the owners.

The Committee recommend that your Excellency be moved to forward the claims herein mentioned to the Right Honourable the Secretary of State for the Colonies, for transmission to the United States Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

[Inclosure 3 in No. 87.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, mariner and ship-owner, solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of William Munsle, of the city of Victoria aforesaid, the owner of the hereinafter mentioned schooner "Carolina."

2. That the schooner "Carolina" is a British vessel, registered at the port of Victoria aforesaid, of about ——— tons burden, builders' measurement, and that in A. D. 1884 the "Carolina" was rebuilt and lengthened about 15 feet by a section built amidships, and put in first-class order and condition. In A. D. 1885 the said "Carolina" was valued for insurance by the Union Insurance Company at 4,000 dollars, and in A. D. 1886 the California Insurance Company placed the same value, namely, 4,000 dollars, upon her for a like purpose. I am informed by the said William Munsle, and believe that since the rebuilding and enlargement of the "Carolina," she has not been re-registered at the port of Victoria aforesaid nor at any other port, and that consequently her actual tonnage is greater than appears by the official record, or the register of the said "Carolina."

3. That on or about the 20th day of May, A. D. 1886, the said "Carolina" left the port of Victoria aforesaid, after having been duly cleared at Customs, one James Ogilvie being master, and one James Blake mate, and a crew of nine sailors and hunters, on a fishing and hunting voyage in the North Pacific Ocean and Behring's Sea.

4. That on the 1st day of August, in said year 1886, while in said Behring's Sea in north latitude 55° 50′, west longitude 168° 53′, then being from 65 to 75 miles from the nearest land, and while, as I am informed and verily believe, lawfully pursuing the objects of said voyage, the said schooner "Carolina" was seized by the United States steam-ship "Corwin," and taken to Ounalaska, in the Territory of Alaska, of the United States of America, and her voyage broken up.

5. That on arrival at Ounalaska aforesaid the "Carolina" was, by order of the United States authorities, stripped of her outfit and running-gear, the seal-skins on board taken out, the captain, James Ogilvie, and the mate, James Blake, placed under arrest and sent to Sitka, in said Territory of Alaska, and the crew sent to the *city of San Francisco.*

6. That upon arrival at Sitka the captain and the mate of the "Carolina" were formally charged with having violated the laws of the United States of America respecting seal-fishing in the waters of Alaska, but before the day fixed for the hearing and trial of said charge Captain Ogilvie disappeared, and was afterwards found dead in or about the neighbourhood of Sitka. The mate, James Blake, was tried, found guilty, and sentenced to pay a fine of 300 dollars and be imprisoned at Sitka for thirty days, and which imprisonment he, James Blake, suffered.

7. That hereto annexed, marked (A), is a Statement of the articles comprising the outfit of the schooner "Carolina" on her departure on said voyage, and all of which I verily believe were on board the "Carolina" at the time of her seizure, excepting only what had been consumed in the ordinary course of the voyage, together with the value of said articles, also of the amount of premiums paid for insurance on the hull, outfit, and cargo of the said "Carolina" for the said voyage; also of the amount of wages paid to the crew and hunters on board the "Carolina" up to the time of such seizure; also of the expenses of the mate and part of the crew in returning
128 to the city of Victoria from Ounalaska and Sitka, and also a statement of the number of seal-skins on board the "Carolina" at the time of said seizure, and the value thereof.

8. The Exhibit (B) hereto annexed is a Statement of the catch of thirteen sealing-vessels in and about the Behring's Sea during so much of the season of A. D. 1886 as they were in Behring's Sea. The statement is taken from the Report of the Inspector of Fisheries for the Province of British Columbia for the year 1886, as contained in the Report of the Department of Fisheries for Canada at pages 248 and 249, and I verily say, from personal knowledge of the facts, that the said Statement is substantial, true, and correct. The schooners "Carolina," meaning the "Carolina" herein mentioned, and "Thornton" and "Onward," were seized on the 1st and 2nd August in 1886, and their voyages thus broken up; the schooners "Mary Taylor," "Mountain Chief," "Rustler," and "Kate" not having been in Behring's Sea during the season of 1886, the catch of these above-named schooners are not included in estimating the average catch in Behring's Sea for that year. On account of the seizures made on the 1st and 2nd August as aforesaid, and of the schooner "Favorite" being ordered out of the sea by the Commander of the said "Corwin," the thirteen vessels mentioned in Exhibit (B), with one or two exceptions, left Behring's Sea, or the best sealing-grounds therein, long before the close of the sealing season, and thus the average catch as found in Exhibit (B) is fully, as I verily believe, 500 skins less than it would have been had they all remained till the end of the season.

9. That hereto annexed, marked (C) is a Statement of the legal expenses incurred at Sitka and elsewhere by reason of the seizure of the "Carolina," and the arrest of her captain and mate as aforesaid, and also of the personal expenses connected therewith.

10. That hereto annexed, marked (D), is a Statement of the damages claimed by the owner of the "Carolina" by reason of her said seizure and detention during the years 1886, 1887, and 1888, based upon the average catch of seal-skins per vessel as found by Exhibit (B).

11. The price per skin charged in Exhibits (A) and (D), namely, 7 dollars, was the market price at Victoria aforesaid at the close of the season of 1886, and was the price which, in the ordinary course of events, would have been realized for said seal-skins had not such seizure taken place.

12. That hereto annexed, marked (E), is an estimate of the principal sums on which interest is claimed, from the 1st day of October, A. D. 1886, on or about which date the catch of the "Carolina" would have been realized on had she not been seized, and also for the actual outlay by her owner prior to that date, arising by reason of the seizure and detention of the "Carolina," the arrest of the captain and mate, and the expenses of the mate and crew in returning to Victoria from Ounalaska and Sitka.

13. That during the month of October, A. D. 1886, and ever since that time, the minimum rate of interest on money for commercial purposes at the city of Victoria aforesaid was and now is 7 per cent. per annum.

14. That hereto annexed, marked (F), is a Statement of the items of the outfit of the "Carolina" when on said voyage and the value thereof, which would have been wholly consumed in the ordinary prosecution of a full season's hunting and fishing voyage.

15. The prices charged for the articles and groups of articles in Exhibit (A), comprising the outfit of the "Carolina," are the market prices of the said articles and groups of articles at Victoria at the time of their purchase for the purposes of said voyage.

16. That as to the item, "Cash on board and unaccounted for, 500 dollars," charged in Exhibit (A), I am informed by the said William Munsle, and do verily believe, that the said sum of 500 dollars was placed on board the "Carolina" at the time of her departure from Victoria as aforesaid, intrusted to the master, James Ogilvie, for use

in cases of emergency or unforeseen expenditures, and I verily believe that said sum of 500 dollars was on board the "Carolina" at the time of her seizure; but owing to the death of Captain Ogilvie at Sitka, it was not known by the said owner what became of the said sum of 500 dollars.

17. That at the time of the seizure of the "Carolina" she was in good order and condition, having been thoroughly overhauled before starting out on said voyage, and not having sustained any damage beyond ordinary wear and tear during said voyage up to the time of her seizure.

129 18. That the value placed on the "Carolina," namely, 4,000 dollars, is a fair and reasonable valuation of the said schooner, and from my personal knowledge of the "Carolina," and the value of vessels of her class at Victoria, I verily believe that she could not be replaced by a vessel in all respects as good and as well adapted to the purposes for which she was used for a less sum than 4,000 dollars.

19. That on or about the 13th day of July last past I was at Ounalaska aforesaid, and saw and was on board of the said schooner "Carolina." She was then lying anchored in the harbour at Ounalaska, stripped of all her outfit and running gear. Her standing rigging was much weather-beaten, her iron work much rusted, her deck seams in a bad state, and I verily believe, from the condition in which the "Carolina" then was, and in view of the fact that she must remain so exposed until least next May (A.D. 1888), it will cost at least 4,000 dollars to put her in as good repair and condition as when seized and return her to Victoria. To be taken to Victoria under ordinary circumstances would alone cost between 2,500 and 3,000 dollars.

20. That the "Carolina" at the time of her seizure was insured in the California Insurance Company for the sum of 2,500 dollars on her hull, and in the sum of 1,000 dollars on her outfit and cargo.

21. That the estimated loss of 5,000 dollars for each of the years 1887 and 1888 by reason of the seizure and detention of the "Carolina" as aforesaid is based upon an average catch of 2,380 seal-skins for each of the said years, at 5½ dollars per skin, which was the market value per skin at Victoria at the close of the season of 1887, after deducting therefrom the cost of outfit and wages, based on the "Carolina's" voyage of A. D. 1886.

And I, James Douglas Warren, aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Act respecting extra-judicial oaths.

Declared and affirmed before me at the city of Ottawa, in the county of Carleton, in the Province of Ontario, this 28th day of November, A. D. 1887, and certified under my official seal.

(Signed) J. D. WARREN.

(Signed) W. D. HOGG,
Notary Public for Ontario.

EXHIBIT (A).

Value of the schooner "Carolina" at the time of seizure		$4,000.00
Outfit:		
Groceries	$598.60	
Ammunition	173.34	
Six short guns	300.00	
Five rifles	130.00	
Gun implements and tools	17.29	
Dry goods	71.37	
Ship chandlery	$876.83	
Water casks	12.00	
Chronometer	160.00	
Four canoes and outfit	248.50	
One boat	100.00	
Salt	81.00	
Coal and wood for fuel	37.62	
Cooking stove and utensils	79.00	
Miscellaneous	42.34	
Cash on board and unaccounted for	500.00	
Two sextants	75.00	
		3,002.89

EXHIBIT (A)—Continued.

Insurance premium and survey fee on 2,500 dollars on hull and 1,000 dollars on outfit and cargo		$352.50
Wages paid to hunters and crews for voyage up to time of seizure	$1,332.22	
Part of crew having been sent to San Francisco by United States authorities, board of five men at San Francisco and passage-money thence to Victoria	71.72	
Passage-money and expenses of mate, James Blake, from Sitka to Victoria after release from prison	100.00	
		2,003.94
686 seal-skins on board the "Carolina" when seized, and not returned, at 7 dollars per skin		4,802.00
Total Exhibit (A)		14,161.33

130 EXHIBIT (B).—Number of seal-skins taken by each of the following thirteen sealing vessels during the year 1886 in and about the Behring's Sea, most of the said vessels leaving the sea before the end of the season fearing capture.

Vessels.	Number of seal-skins.	Vessels.	Number of seal-skins.
Pathfinder	1,766	Dolphin	2,601
Mary Ellen	4,256	Anna Beck	1,400
Theresa	2,625	Grace	2,550
Favourite	2,325	Sayward	2,725
Black Diamond	1,760		
Alfred Adams	2,465	Total catch	30,955
Active	2,275		
City of Santiago	1,620	Average per vessel	2,381
Silvia Handy	1,587		

EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure of the "Carolina"		$500.00
Counsel and other legal fees and expenses in and about the seizure of the "Carolina," and the claims arising thereunder, exclusive of the above 500 dollars		750.00
Personal expenses other than the above in the same connection		250.00
Total		1,500.00

EXHIBIT (D).—Estimated damages arising from the seizure and detention of the schooner "Carolina" based on the average catch per vessel as given in Exhibit (B), season 1886.

	No.		
Average catch of seals	2,381		
Less on board at seizure, and charged in Exhibit (A)	689		
Balance at 7 dollars per skin	1,695	=	$11,865.00
Reasonable and probable profit on operations for year 1887	$5,000.00		
"Carolina" not being released and not available to engage in next year's operations, reasonable and probable profit for 1888	5,000.00		
			10,000.00
Total of Exhibit (D)			21,865.00

EXHIBIT (E).—Estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which interest is so claimed.

Value of "Carolina's" estimated catch for 1886—namely, 2,381 skins, at 7 dollars per skin—from the 1st day of October, A. D. 1886, when the catch would have been realized on	$16,667.00	
Actual cash outlay for legal and other necessary expenses incurred by reason of the said seizure	500.00	
Total principal on which interest is claimed from October, A. D. 1886, to date of payment of claim		$17,167.00
Estimated value of the "Carolina" catch for 1887, less cost of outfit and wages of crew and hunters, on which interest at 7 per cent. is claimed from 1st October, A. D. 1887, on or about which date the catch would be realized on to date of payment		5,000.00
If the claim for 1887 be not allowed, then interest is claimed on the value of the "Carolina" from 1st October, 1886, to date of payment		4,000.00

131 EXHIBIT (F).—Details of items of "Carolina's" outfit consumed during the course of a full hunting and sealing voyage.

Groceries	$598.60
Ammunition	173.34
Dry goods	71.37
Ship chandelry	376.83
Salt	81.00
Coal and wood	37.62
Miscellaneous	42.34
Wages of crew	1,832.22
Total value consumed	3,213.32

[Inclosure 4 in No. 87.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am a British subject by birth.

2. That I was sole owner of the British steam-schooner "Thornton," 78 tons burden by builders' measurement, registered at the port of Victoria aforesaid, before and at the time of her seizure hereinafter set out by the United States steam-ship "Corwin."

3. That the said steam-schooner "Thornton" was rebuilt by me in A. D. 1887,* at a cost of 3,500 dollars, and in A. D. 1880 and A. D. 1881 was fitted up with steam propelling power at an additional cost of 3,000 dollars. Her bottom and sides of above light water-line were coppered and copper fastened.

4. That on or about the 16th day of May, 1886, the said steam-schooner "Thornton" was regularly cleared at the port of Victoria aforesaid for a full season of about four months' fishing and hunting in the North Pacific Ocean and Behring's Sea, and that on or about the 27th day of said month of May the "Thornton" finally sailed from Clayoquot Sound, on the south-west of Vancouver Island, on said fishing and hunting voyage.

5. The master of the "Thornton" on and for said voyage was one Hans Guttormsen, of the said city of Victoria, and the mate one Harry Norman, of the same place, and a crew of thirteen men.

6. That on the 1st day of August, A. D. 1886, while in Behring's Sea in north latitude 55° 45′ and west longitude 168° 44′, lawfully, as I verily believe, pursuing the objects of said voyage, the said steam-schooner "Thornton" was seized by the United States steam-ship "Corwin," and by the "Corwin" taken to Ounalaska, in the United States Territory of Alaska, and her voyage was broken up.

*Qy. 1877.

7. That on arrival at Ounalaska the said "Thornton" was, by order of the United States authorities, stripped of her outfit and running gear, the seal-skins then on board taken out, the captain and mate made prisoners and sent to Sitka, in said Territory of Alaska, where, after trial, they were fined, the captain in the sum of 500 dollars and the mate in the sum of 300 dollars, and each imprisoned for thirty days.

The remainder of the crew, with only two excepted, were sent by the United States authorities to the city of San Francisco by a steamer belonging to the Alaska Commercial Company.

8. That I am informed by Captain Guttormsen that immediately upon the arrival at Ounalaska of the "Corwin" with the "Thornton," he (the captain) entered his solemn protest against the seizure of his vessel and her outfit and the seal-skins then on board.

9. That on or about the 13th day of July of the present year I was at Ounalaska, and saw the said steam-schooner "Thornton," and found her in a very bad condition. She was lying on her bilge on a gravel beach, partially embedded, and exposed to all weathers, and was consequently greatly depreciated in value since her seizure. Her copper is much chafed, her deck seams are opened, through which water had leaked upon the steam-boiler, engine, and machinery, all of which are well nigh ruined. She cannot be brought away from Ounalaska without repairs involv-
132 ing great expense, and not at all before next summer can this be done. I verily believe, from the inspection I then made, that it would cost over 6,000 dollars to take the "Thornton" from Ounalaska to Victoria aforesaid, the nearest port at which the repairs could be made, and put her in as good order and condition as she was in when seized.

10. That at the time of her seizure the "Thornton" was in good repair and condition and perfectly seaworthy, excepting only that her mainmast-head had been carried away during the voyage she then was on.

11. That for and during the said voyage the "Thornton" was insured by Lloyd's underwriters in the sum of 1,200*l.* on the hull and machinery, and in the sum of 1,000*l.* on the outfit and cargo.

12. That hereto annexed, marked (A), is a detailed Statement of the outfit of the "Thornton" for the voyage on which she was seized as above set out, and all of which, excepting only what had been consumed in the regular course of the voyage, was on board the "Thornton" at the time of her seizure; also of the amount of premiums paid by me for insurance upon the hull, machinery, outfit, and cargo of the "Thornton" during the said voyage, and also for wages paid by me to the hunters and crew of the said "Thornton" of said voyage for the time of said voyage up to the said seizure. Also, a Statement of the sums paid by me for passage money of the crew from San Francisco to Victoria, and passage money and expenses of the captain and mate at and from Sitka after their release to Victoria aforesaid.

13. That also in said Statement (A) are charged 403 seal-skins taken from the "Thornton" at the time of seizure, and which, so appears from the Report of the officers of the United States steam-ship "Corwin," submitted to the Court at Sitka on the trial of the said captain and mate of the "Thornton," and the price there charged, namely, 7 dollars per skin, was the market value per skin at Victoria aforesaid, on or about the 1st October, A.D. 1886, when the said skins, had not such seizure taken place, would have been placed on the market at Victoria.

14. That the value placed upon the various articles and groups of articles in the outfit mentioned in Exhibit (A) is the actual cost of the said articles at the city of Victoria aforesaid at the time of their purchase in the spring of 1886.

15. That hereto annexed, marked (B), is a Statement showing the number of seal-skins taken by each one of the thirteen sealing-schooners in and about Behring's Sea during the season of 1886. The said statement is based upon the Report of the Inspector of Fisheries for the Province of British Columbia for the year 1886, as contained in the Report of the Minister of Marine and Fisheries for Canada for said year at pp. 248 and 249. The schooners "Carolina," "Onward," and said steam-schooner "Thornton" were seized on the 1st and 2nd August of said year when the sealing season was not half over, and the schooners "Mary Taylor," "Mountain Chief," "Rustler," and "Kate" were not in Behring's Sea during the season of 1886, so that in calculating the average catch for the Behring's Sea fleet, the catch of the seven above-mentioned schooners was not included. With one or two exceptions the thirteen sealing-schooners, mentioned in Exhibit (B), left Behring's Sea, or the best fishing grounds therein, long before the end of the said season, as their masters feared seizure by the United States authorities, and the said average catch so found by Exhibit (B), is therefore fully 500 less than it otherwise would have been.

16. That hereto annexed, marked (C), is a Statement of the amount of legal expenses paid and incurred by me at Sitka and elsewhere, and also of the amount of my personal expenses incurred by reason of the said seizure.

17. That hereto annexed, marked (D), is a Statement showing the estimated loss incurred by me as owner of the said "Thornton," by reason of the said seizure and

detention, and of the seizure and detention of the seal-skins then on board the "Thornton," and the breaking up of the said sealing voyage. Also, the estimated loss incurred by me during the present year by reason of the non-release of the "Thornton;" and in view of the fact that it is now too late to put the "Thornton" in repair and condition to engage in next year's business, the estimated loss for next year. And I verily believe that the said estimates of the losses incurred by me by reason of the seizure and detention of the said "Thornton" for the years 1886, 1887, and 1888, are fair and reasonable estimates, and rather under than over the actual losses so sustained.

18. That the estimated loss of 5,000 dollars for each of the years 1887 and 1888, by reason of the seizure and detention of the "Thornton," is based upon an average catch of 2,380 seal-skins valued at 5 dol. 50 c. per skin, the market value at Victoria for the present season, deducting from the gross value thereof the cost of outfit
133 and amount of the wages of hunters and crew, based on the "Thornton's" voyage of A. D. 1886.

19. That during and since the year 1886 7 per cent. per annum was, and now is, the minimum rate at which money for ordinary commercial purposes could be obtained at the city of Victoria aforesaid, and that hereto annexed, marked (E), is an estimate of the principal sums on which interest is claimed at the rate of 7 per cent. per annum, and the time for which it is so claimed.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Act respecting extra-judicial oaths.

Declared and affirmed before me at the city of Ottawa, in the county of Carleton, this 25th day of November, A. D. 1887, and certified under my official seal.

(Signed) J. D. WARREN.

[SEAL.] (Signed) D. B. MACTAVISH, *Notary Public.*

EXHIBIT (A).

Value of steam-schooner "Thornton" at time of seizure by United States steam-ship "Corwin"		$6,000.00
Value of "Thornton's" outfit:		
Groceries	$533.37	
Ammunition	340.26	
Dry goods	49.88	
Iron water tanks	50.00	
Ship chandlery for sealing purposes	278.64	
One chronometer	81.45	
Extra suit of new sails	307.18	
Seven No. 10 shot guns	248.00	
Five rifles	125.96	
Gun implements and tools	23.20	
Four new sealing boats and sails	612.70	
Water casks	25.00	
6 tons salt	90.00	
18 tons coal	126.00	
Cooking range and utensils	50.00	
Total outfit		2,941.64
Insurance:		
Premium on 1,200*l.*—insurance on hull, 101*l.* 4*s.*	492.83	
Premium on 1,000*l.*—insurance on outfit and cargo, 20*l.* 3*s.* 4*d.*	98.60	
		591.43
Wages paid hunters and crew up to time of seizure, hunters and crew having been taken to San Francisco by United States authorities	1,370.00	
Passage money thence to Victoria	177.16	
Passage money and expenses of Captain Guttormsen and mate, Harry Norman, after release from Sitka to Victoria	200.00	
403 seal-skins on board the "Thornton" at the time of seizure, at 7 dollars per skin	2,821.00	
Total		4,568.16
Total of Exhibit (A)		14,101.23

(Signed) D. B. MACTAVISH, *Notary Public.*

134 EXHIBIT (B).—Number of seals taken by the following thirteen sealing schooners during the year 1886 in and about the Behring's Sea, most of the thirteen leaving the sea before the end of the season, fearing capture.

Schooners:	No. of seals.
Pathfinder	1,766
Mary Ellen	4,256
Theresa	2,625
Favourite	3,325
Black Diamond	1,760
Alfred Adams	2,465
Active	2,275
City of Santiago	1,620
Silvia Handy	1,587
Dolphin	2,601
Anna Beck	1,400
Grace	2,550
Sayward	2,725
Total catch	30,955
Average per vessel	2,381

(Signed) D. B. MACTAVISH, *Notary Public.*

EXHIBIT (C).

Legal expenses at Sitka in connection with seizure of "Thornton"	$500.00
Counsel and other legal fees and expenses in and about the claims arising from said seizure	750.00
Travelling, hotel, and other necessary expenses in connection with said seizure and claims	1,000.00
Grand total, Exhibit (C)	2,250.00

(Signed) D. B. MACTAVISH, *Notary Public.*

EXHIBIT (D).—Damages arising from the seizure and detention of the "Thornton," based upon the average catch of seal-skins per season as given in Statement (B), season of 1886.

	No.	
Estimated average catch	2,381	
Less 403 skins on board the "Thornton" at the time of seizure, and charged in Statement (A)	403	
Balance, at 7 dollars per skin	1,978	=$13,846.00
Reasonable and probable profit "Thornton" would have earned in 1887 for owner		5,000.00
In view of fact that "Thornton" cannot be made available for next year's operations, reasonable and probable profit for 1888		5,000.00
Total amount, Exhibit (D)		23,846.00

(Signed) D. B. MACTAVISH, *Notary Public.*

135 SUMMARY OF EXHIBITS.

Value of "Thornton"	$6,000.00
Value of "Thornton's" outfit	3,533.07
Wages of crew and hunters	1,370.00
Passage money and expenses of officers and crew in returning to Victoria	377.16
403 seal-skins, at 7 dollars	2,821.00
Total, Exhibit (A)	$14,101.23

Personal expenses of owner	$1,000.00	
Legal expenses	1,250.00	
Total, Exhibit (C)		$2,250.00
Balance on estimated seal catch for 1886	13,846.00	
Estimated loss to owner by detention of the "Thornton" during 1887	5,000.00	
Estimated loss on same grounds for 1888	5,000.00	
Total, Exhibit (D)		23,846.00
Total amount of claim		40,197.23

MEMORANDUM.

If the owner of the "Thornton" is indemnified for balance of estimated seal catch for year 1886, there should be deducted from the total claim the sum of 3,379 dol. 58 c. included in Exhibit (A) for outfit, which would necessarily have been consumed in the prosecution of the voyage, and including the sum of 1,370 dollars paid in wages, as per Exhibit (F).

Total claim	$40,197.23
Value consumed on voyage	3,379.58
Net claim	36,817.65

(Signed) D. B. MACTAVISH, *Notary Public.*

EXHIBIT (E).—Estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which interest is so claimed.

Value of "Thornton's" estimated full catch for 1886, namely, 2,381 skins, at 7 dollars per skin, from the 1st October, 1886, when the catch would have been realized on	$16,667.00
Actual cash outlay for legal and other necessary expenses incurred by reason of the seizure before the 1st October, 1886	500.00
Total principal on which interest is claimed since the 1st October, 1886, to date of payment of claim	17,167.00
Estimated value of the "Thornton" catch for 1887, less cost of outfit and wages of crew and hunters, on which interest at 7 per cent. per annum is claimed from the 1st October, 1887, on or about which date the catch would be realized on, to date of payment	5,000.00
If the claim for 1887 be not allowed, then interest is claimed on the value of the "Thornton" at 7 per cent. per annum from the 1st October, A. D. 1886, to time of payment	6,000.00

(Signed) D. B. MACTAVISH, *Notary Public.*

136 EXHIBIT (F).—Details of items of "Thornton's" outfit consumed during the course of full sealing and fishing voyage.

ITEMS.

Groceries	$533.37
Ammunition	340.26
Dry goods	49.88
Ship chandlery	278.64
Insurance premiums	591.43
Wages of crew and hunters	1,370.00
6 tons salt	90.00
18 tons coal	126.00
Total value consumed	3,379.58

(Signed) D. B. MACTAVISH, *Notary Public.*

No. 88.

Sir L. West to the Marquis of Salisbury.—(Received January 16.)

WASHINGTON, *January 5, 1888.*

MY LORD: With reference to my despatches of the 2nd April last and of the 6th May, I have the honour to inform your Lordship that I am advised that the case of the American sealing-schooner "Sierra" will probably be dismissed, on the ground that the Captain of the Revenue cruizer was acting under the instructions of the Government, and that the plaintiff therefore would have to apply to Congress.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 89.

Colonial Office to Foreign Office.—(Received January 16.)

DOWNING STREET, *January 14, 1888.*

SIR: With reference to the letter from this Department of the 26th ultimo, relating to the seizure of Canadian sealing-schooners in Behring's Sea, I am directed by Secretary Sir Henry Holland to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, inclosing an approved Report of a Committee of his Privy Council, submitting a revised statement of the loss sustained in the case of the schooner "Onward."

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 89.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, *Ottawa, December 23, 1887.*

SIR: With reference to your despatch of the 14th September last, directing attention to the magnitude of the claims for compensation prepared by the owners of the British sealing-vessels seized in Behring's Sea by United States Revenue cruizers, and to my despatch of the 2nd instant, I have the honour to forward herewith, for transmission to the United States Government, a copy of an approved Report of a Committee of the Privy Council, submitting a revised statement of the loss sustained in the case of the schooner "Onward."

You will observe that my Minister of Marine and Fisheries considers that the claim now made is not unreasonable.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 2 in No. 89.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council, December 20, 1887.

The Committee of the Privy Council have had under consideration a despatch, dated the 14th September, 1887, from the Right Honourable the Secretary of State for the Colonies, on the subject of the seizure of British sealing-vessels in Behring's Sea by United States Revenue cruizers, and directing attention to certain claims for compensation against the United States Government.

137 The Minister of Marine and Fisheries, to whom the despatch and inclosures were referred, states that the claims (three in number) referred to in this despatch were sent back to the owners of the vessels for revision. In the cases of two of these, the "Thornton" and "Carolina," a full and detailed revised statement of the losses has already been submitted, and he (the Minister) submits herewith a revised statement of the loss to the owners of the schooner "Onward" on account of the seizure of said vessel. This claim the Minister considers to be a reasonable one.

The Committee recommend that your Excellency be moved to forward the claim herein mentioned to the Right Honourable the Secretary of State for the Colonies for transmission to the United States Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

[Inclosure 3 in No. 89.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Charles Spring, merchant, of the said city of Victoria, and owner of the hereinafter-mentioned schooner "Onward."

2. That the said schooner "Onward" is a British vessel of about 94 tons burden, builder's measurement, and at the time of her seizure, as hereinafter set out, was, and now is, registered at the port of Victoria aforesaid.

3. That about the 10th day of June, A. D. 1886, the said schooner "Onward" sailed from the west coast of Vancouver Island, having previously cleared at the port of Victoria aforesaid, on and for a full-season hunting and fishing voyage in the North Pacific Ocean and Behring's Sea.

4. That on and for said voyage the crew of the "Onward" consisted of Daniel Monroe, of Victoria aforesaid, master; John Margotich, of the same place, mate; and twenty sailors and hunters; all of whom were on board the "Onward" at the time of her seizure hereinafter mentioned.

5. That on the morning of the 2nd August, A. D. 1886, while in said Behring's Sea, in north latitude 54° 32′ and west longitude 167° 55′, and about 68 miles from Ounalaska Island, the nearest land, lawfully, as I verily believe, pursuing the objects of her said voyage, the "Onward" was seized by the United States steam-ship "Corwin," and taken in tow of said "Corwin" to Ounalaska, in the Territory of Alaska, of the United States of America, having then on board 400 seal-skins.

6. That upon the said "Corwin's" arrival at Ounalaska aforesaid with the said "Onward," the "Onward" was, by order of the United States authorities thereat, stripped of her sails and outfit, the skins on board taken out, her master, the said Daniel Monroe, and mate, the said John Margotich, placed under arrest, and her voyage completely broken up.

7. That the said master and mate, Daniel Monroe and John Margotich, were by the said United States authorities taken to Sitka, in the said Territory of Alaska, there to be tried on a charge of having violated the laws of the United States respecting seal fishing in the waters of Alaska. On arrival at Sitka the said master and mate were bound over to appear for trial on said charge, and were on or about the 1st of the month of September following so tried, found guilty, and sentenced—the master, Daniel Monroe, to pay a fine of 500 dollars, the mate, John Margotich, to pay a fine of 300 dollars, and each to be imprisoned for the space of thirty days, which imprisonment they suffered.

8. That hereto annexed, marked "(A)," is a statement of the articles comprising the outfit of the "Onward" at the time of her departure on said voyage, and the value thereof, all of which were on board the "Onward" at the time of her said seizure, excepting only what had been consumed in the ordinary course and prosecution of the voyage; also of the amount paid for insurance on said voyage, also the amount of wages paid the crew and hunters on said voyage, also the amount paid for fares and expenses of the master and mate in returning to Victoria from Sitka after their release, and also of the number and value of the seal-skins on board the "Onward" at the time of her seizure, and which were taken from the "Onward" at Ounalaska by the United States' authorities.

9. That the prices charged for the various articles and groups of articles com-
138 prising the outfit of the "Onward" on and for said voyage are the regular market prices of the said articles at Victoria aforesaid at the time of their *purchase for use* on said voyage. The price charged in said statement for the seal-

skins on board the "Onward" when seized, namely, 7 dollars per skin, was the market price per skin at Victoria aforesaid at the close of the sealing season of 1886, when the catch of the "Onward," had not such seizure taken place, would have been placed on the market.

10. That the value of the schooner "Onward," as given in Exhibit (A), namely, 4,000 dollars, is a fair and reasonable value for the said schooner at the time of her seizure; she was then, and had always been, kept in first class order and condition, and was always a staunch, seaworthy vessel, and for the said voyage had been refitted with new sails and sailing gear.

11. That hereto annexed, marked "B," is a statement of the catch of thirteen sealing-vessels, in and about Behring's Sea, during the season of 1886; the said statement is compiled from the Report of the Inspector of Fisheries for the Province of British Columbia for the year 1886, as contained in the Report of the Department of Fisheries for Canada for that year at pp. 248 and 249, and from personal knowledge of the facts therein set out, I verily believe the said statement to be substantially true and correct. The steam-schooner "Thornton," the schooners "Carolena" and "Onward," meaning the "Onward" herein mentioned, were seized on the 1st and 2nd August, 1886, in Behring's Sea, at the beginning of the best sealing period; and the schooners "Mary Taylor," "Mountain Chief," "Rustler," and "Kate" were not in Behring's Sea during the season of 1886, so in estimating the average catch per vessel in Behring's Sea for 1886, the catch of the above-named seven vessels is not included in Exhibit (B); all of the thirteen vessels named in Exhibit (B), with only one or two exceptions, left Behring's Sea long before the end of the sealing season of 1886, because of the seizures which had been made by the United States steam-ship "Corwin," fearing to remain lest they also should be seized; by reason of such departure from the said sea, or the best sealing grounds therein, before the close of the season, I verily believe that the catch per vessel, as found in Exhibit (B), namely, 2,381 seal-skins, is fully 500 less than it would have been had the said vessels remained the full season in said sea.

12. That hereto annexed, marked "(C)," is a statement of the legal expenses incurred at Sitka and elsewhere by reason of the said seizure of the "Onward," the arrest and imprisonment of the said master and mate, and the claims arising therefrom, and also of the personal expenses of the said owner and said agent in the same connection.

13. That the Exhibit (D), hereto annexed, is a statement of the estimated loss and damage resulting to the owner of the "Onward" by reason of her seizure and detention in A. D. 1886, A. D. 1887, and A. D. 1888. The estimated loss for the year 1886 is based upon the average catch per vessel, as found in Exhibit (B), less the number of skins on board the "Onward" when seized, the balance being valued at 7 dollars per skin, the price per skin at Victoria at the close of the season 1886. The claim for A. D. 1887 and A. D. 1888 is based upon the same average catch as for A. D. 1886, valued at 5 dol. 50 c. per skin, which was the market value per skin at Victoria aforesaid at the close of the season 1887, after deducting therefrom the cost of outfit and wages of crew and hunters for each year, based on the "Onward's" said voyage of A. D. 1886. The said claim of 5,000 dollars for each of said years A. D. 1887 and A. D. 1888 is a fair and reasonable estimate of the earnings of the "Onward" in hunting and fishing for the said years.

14. That Exhibit (E), hereto annexed, is a statement of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which said interest is so claimed. At the time when the catch of the "Onward" for 1886 would have, in the ordinary course of events, been realized on, namely, on or about the 1st October in said year, the minimum rate of interest on money for commercial purposes was, has since continued to be, and now is, 7 per cent. per annum.

15. That hereto annexed, marked "(F)," is a statement of the articles, and the value thereof, as given in Exhibit (A) of the "Onward's" outfit on said voyage of 1886, including insurance premiums and wages, which would necessarily be wholly, or almost wholly, consumed in the course of a full season's hunting and fishing, such as contemplated by the "Onward" in 1886.

16. That on the 13th day of July last past I was at Ounalaska aforesaid, and was then on board of the said schooner "Onward." She was then lying side-to on a gravel beach, in the harbour at Ounalaska, partially embedded in the gravel, and generally in a very bad condition. Her standing rigging was much weather-beaten, also her deck and side-seams were in a very bad state, the long exposure and severe frosts of the previous winter having broken out the pitch, and, judging from their appearance, they were very leaky. From what I then saw of the condition of
139 the "Onward," I verily believe that she could not be floated and put in a fit state for sea without extensive repairs, which at Ounalaska, where there is neither the requisite workmen nor material, would involve very large expenditure, and that to float the said "Onward," take her to Victoria aforesaid, the nearest port where the requisite facilities exist, and where she could be repaired and refitted at least cost, and there repair and refit *her, would cost at least* 4,500 dollars.

And I, Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

EXHIBIT (A).

Value of the schooner "Onward" at the time of her seizure		$4,000.00
Outfit:		
Groceries	$470.70	
Ammunition	19.07	
Dry goods	68.25	
Ship chandlery	251.59	
Four shot guns	61.00	
Three iron water-tanks	57.00	
Fourteen water-casks	21.00	
Nine canoes and outfit	445.50	
Salt	52.57	
Coal	13.80	
Cooking stove and utensils	56,63	
Chronometer, sextant, and two flags	140.00	
Three extra compasses	24.00	
Sundries	97.58	
		1,778.69
Insurance premium and survey on hull		260.00
Wages paid to hunters and crew for voyage		1,820.00
Fines and expenses of captain and mate from Sitka to Victoria after release		200.00
400 seal-skins on board, at 7 dollars per skin		2.800.00
Total, Exhibit (A)		10,858.69

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (B).—Number of Seal-skins taken by each of the following thirteen Sealing-vessels during the year 1886, in and about the Behring's Sea, most of the said vessels leaving the Sea before the end of the said Season fearing seizure:

Vessels.	Seal-skins.	Vessels.	Seal-skins.
Pathfinder	1,766	Dolphin	2,601
Mary Ellen	4,256	Anna Beck	1,400
Theresa	2,625	Grace	2,550
Favorite	2,325	W.P. Sayward	2,725
Black Diamond	1,700		
Alfred Adams	2,465	Total catch	30,955
Active	2,275		
City of Santiago	1,620	Average per vessel	2,381
Silvia Handy	1,587		

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

140 EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure of the "Onward"..	$500.00
Counsel and other legal fees and expenses in and about the seizure of the "Onward," and the claims arising thereunder, exclusive of the above 500 dollars	750.00
Personal expenses other than the above in the same connection	250.00
Total	1,500.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D).—Estimated Damages arising from the Seizure and Detention of the Schooner "Onward," based on the average Catch per Vessel for 1886, as given in Exhibit (B).

Average catch seal	2,381	
Less number on board at seizure, and charged in Exhibit (A)	400	
Balance, at 7 dollars per skin	1,981	=$13,867.00
Reasonable and probable profit on operations for the year 1887		5,000.00
"Onward" not being released, and not available to engage in next year's operations, reasonable and probable profit for 1888		5,000.00
Total, Exhibit (D)		23,867.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).—Estimate of the Principal Sums on which Interest at 7 per cent. per annum is claimed, and the Time for which interest is so claimed.

Value of the "Onward's" estimated catch for 1886, namely, 2,381 skins, at 7 dollars per skin, from the 1st day of October, A. D. 1886, when the catch would have been realized on	$16,667.00
Actual outlay for legal and other necessary expenses incurred by reason of the seizure of the "Onward" before the 1st October, 1886	500.00
Total principal on which interest is claimed from October, A. D. 1886, to date of payment of claim	17,167.00
Estimated value of "Onward's" catch for 1887 (less cost of outfit and wages of crew and hunters) on which interest at 7 per cent. per annum is claimed from the 1st October, A. D. 1887, on or about which date the catch would be realized on, to date of payment	5,000.00
If claim for 1887 be not allowed, then interest is claimed on the value of the "Onward" from the 1st October, A. D. 1886, to date of payment	4,000.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).—Value of Articles of "Onward's" Outfit, which would have been wholly or almost wholly consumed on a full Hunting and Fishing Trip.

Groceries	$470.70
Ammunition	19.07
Dry goods	68.25
Ship chandlery	251.59
Salt	52.57
Coal	13.80
Wages	1,820.00
Insurance premiums	260.00
Total consumption during voyage	2,955.98

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the sealing season of 1886, as set out in Exhibit (B), be allowed, then the amount of this Exhibit, 2,955 dol. 98 c. will properly appear as a credit, and be deducted from the total of Exhibit (A), of which it forms part.

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141 No. 90.

Colonial Office to Foreign Office.—(Received January 23.)

DOWNING STREET, *January 23, 1888.*

SIR: I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquis of Salisbury, with reference to previous correspondence, copies of two despatches from the Governor-General of Canada, forwarding statements of claims for losses sustained by certain British vessels engaged in the Behring's Sea seal fishery.

I am to request that these claims may be presented to the United States Government should Lord Salisbury see no objection thereto.

I am to request that the sub-inclosures in these despatches, which are sent in original, may be returned.

I am, &c. (Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 90.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, *Ottawa, January 4, 1888.*

SIR: I have the honour to transmit to you, for presentation to the United States Government, a copy of an approved Minute of the Privy Council of Canada, submitting a detailed statement of the claim of the owner and agent of the schooner "Favorite," which vessel was, on the 2nd August, 1886, while sealing in Behring's Sea, about 68 miles from land, ordered by the United States steamer "Corwin," under threat of seizure, to cease operations and leave the Behring's Sea forthwith.

You will observe that the circumstances connected with this claim differ from all the others, inasmuch as no actual seizure was effected, but my Minister of Marine and Fisheries considers that the claim for the loss of the fishing season is not unreasonable.

I have, &c. (Signed) LANSDOWNE.

[Inclosure 2 in No. 90.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 30th December, 1887.

On a Report dated the 19th December, 1887, from the Minister of Marine and Fisheries, submitting a detailed statement of the claim of the owner and agent of the schooner "Favorite," which vessel was, on the 2nd day of August, 1886, while sealing in the Behring's Sea, not far from where the schooner "Onward" was seized the same day, viz., north latitude 54° 32′, west longitude 167° 55′, about 68 miles from land, ordered by the United States steamer "Corwin," under threat of seizure, to cease operations and leave the Behring's Sea forthwith.

The Minister represents that the circumstances connected with this claim differ from all the others, inasmuch as no actual seizure was effected, but the Minister believes the claim for loss of the fishing season to be reasonable.

The Minister recommends that it be forwarded to Her Majesty's Government for presentation to the Government of the United States.

The Committee advise that your Excellency be moved to forward the claim herein mentioned to the Right Honourable the Secretary of State for the Colonies, for transmission to the United States Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

142 1. I am the duly authorized agent of Charles Spring, merchant, of Victoria aforesaid, the owner of the hereinafter mentioned schooner "Favorite."

2. That the schooner "Favorite" herein referred to is a British vessel of 80 tons, registered at the port of Victoria aforesaid, and was so registered at the time of the occurrence hereinafter set out, namely, on the 1st and 2nd days of August, A. D. 1886.

3. That towards the end of the month of May A. D. 1886, after having been duly cleared at the port of Victoria aforesaid, for that purpose, the said schooner "Favorite" sailed on and for a full season's hunting and fishing in the North Pacific Ocean and Behring's Sea.

4. That on and for said voyage the crew of the said "Favorite" consisted of Alexander McLean, of Victoria aforesaid, master, a mate, and twenty-three sailors and hunters, and completely equipped and provisioned for a full season of hunting and fishing in said waters.

5. I am informed by the said master of the "Favorite," and several of the crew of the "Favorite," and do verily believe, that on the night of the 1st August, or early morning of the 2nd August, A. D. 1886, the said "Favorite," while in the Behring's Sea, not far from where the schooner "Onward" was seized on the said morning of the 2nd August, 1886, and while lawfully pursuing the objects of said voyage, was hailed by United States steam-ship "Corwin," then having in tow the seized vessels "Thornton" and "Carolena." After the usual inquiries as to the name of the vessel, the Commander or officer then in charge of the said "Corwin" ordered the "Favorite" to cease sealing and leave Behring's Sea forthwith, otherwise she would be seized, or words to that effect. The master of the "Favorite," not wishing to risk seizure, and fearing that if he remained in the said sea his vessel and cargo would be so seized as threatened by the Commander of the "Corwin," and for no other reason or reasons whatever, at once made all sail and left the said sealing grounds, thereby losing the remainder of the sealing season.

6. That by reason of so being forced to cease sealing and leave Behring's Sea at about the beginning of the best period of the sealing season, the "Favorite" lost at least 1,000 seal-skins, and her total catch for the season was reduced by that much.

7. That on said voyage the "Favorite" carried twenty hunters and ten canoes. The schooner "Mary Ellen," of Victoria aforesaid, on a similar voyage the same season, with fifteen hunters and five sealing-boats, not seeing or hearing of the said seizures, and remaining in the sea till or about the close of the sealing season, caught 4,256 seal-skins. The actual catch of the "Favorite" for said season was only 3,325, though she had one-third more hunters than the said "Mary Ellen," and equally as good, if not better, chances of obtaining as large a catch; and I verily believe that the sum of the actual catch of the "Favorite." together with the 1,000 herein claimed, making a total of 4,325 for the season of 1886, is a fair and reasonable estimate for the catch of the "Favorite" that year, had she not been interfered with as above set out.

8. That the market price per seal-skin at Victoria at the close of the season of 1886 was 7 dollars, and the amount claimed as the value of 1,000 skins lost to the owner of the "Favorite" by reason of her so leaving the Behring's Sea is 7,000 dollars.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

[Inclosure 4 in No. 90.]

The Marquis of Lansdowne to Sir H. Holland,

GOVERNMENT HOUSE, *Ottawa, January 5, 1888.*

SIR: With reference to previous correspondence, I have the honour to forward herewith a copy of an approved Minute of the Privy Council of Canada, embodying a Report of my Minister of Marine and Fisheries, submitting detailed statements of

Memo.—If the full claim for the sealing season of 1886, as set out in Exhibit (B), be allowed, then the amount of this Exhibit, 2,955 dol. 98 c. will properly appear as a credit, and be deducted from the total of Exhibit (A), of which it forms part.

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141 No. 90.

Colonial Office to Foreign Office.—(Received January 23.)

DOWNING STREET, *January 23, 1888.*

SIR: I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquis of Salisbury, with reference to previous correspondence, copies of two despatches from the Governor-General of Canada, forwarding statements of claims for losses sustained by certain British vessels engaged in the Behring's Sea seal fishery.

I am to request that these claims may be presented to the United States Government should Lord Salisbury see no objection thereto.

I am to request that the sub-inclosures in these despatches, which are sent in original, may be returned.

I am, &c. (Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 90.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, *Ottawa, January 4, 1888.*

SIR: I have the honour to transmit to you, for presentation to the United States Government, a copy of an approved Minute of the Privy Council of Canada, submitting a detailed statement of the claim of the owner and agent of the schooner "Favorite," which vessel was, on the 2nd August, 1886, while sealing in Behring's Sea, about 68 miles from land, ordered by the United States steamer "Corwin," under threat of seizure, to cease operations and leave the Behring's Sea forthwith.

You will observe that the circumstances connected with this claim differ from all the others, inasmuch as no actual seizure was effected, but my Minister of Marine and Fisheries considers that the claim for the loss of the fishing season is not unreasonable.

I have, &c. (Signed) LANSDOWNE.

[Inclosure 2 in No. 90.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 30th December, 1887.

On a Report dated the 19th December, 1887, from the Minister of Marine and Fisheries, submitting a detailed statement of the claim of the owner and agent of the schooner "Favorite," which vessel was, on the 2nd day of August, 1886, while sealing in the Behring's Sea, not far from where the schooner "Onward" was seized the same day, viz., north latitude 54° 32′, west longitude 167° 55′, about 68 miles from land, ordered by the United States steamer "Corwin," under threat of seizure, to cease operations and leave the Behring's Sea forthwith.

The Minister represents that the circumstances connected with this claim differ from all the others, inasmuch as no actual seizure was effected, but the Minister believes the claim for loss of the fishing season to be reasonable.

The Minister recommends that it be forwarded to Her Majesty's Government for presentation to the Government of the United States.

The Committee advise that your Excellency be moved to forward the claim herein mentioned to the Right Honourable the Secretary of State for the Colonies, for transmission to the United States Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

142 1. I am the duly authorized agent of Charles Spring, merchant, of Victoria aforesaid, the owner of the hereinafter mentioned schooner "Favorite."

2. That the schooner "Favorite" herein referred to is a British vessel of 80 tons, registered at the port of Victoria aforesaid, and was so registered at the time of the occurrence hereinafter set out, namely, on the 1st and 2nd days of August, A. D. 1886.

3. That towards the end of the month of May A. D. 1886, after having been duly cleared at the port of Victoria aforesaid, for that purpose, the said schooner "Favorite" sailed on and for a full season's hunting and fishing in the North Pacific Ocean and Behring's Sea.

4. That on and for said voyage the crew of the said "Favorite" consisted of Alexander McLean, of Victoria aforesaid, master, a mate, and twenty-three sailors and hunters, and completely equipped and provisioned for a full season of hunting and fishing in said waters.

5. I am informed by the said master of the "Favorite," and several of the crew of the "Favorite," and do verily believe, that on the night of the 1st August, or early morning of the 2nd August, A. D. 1886, the said "Favorite," while in the Behring's Sea, not far from where the schooner "Onward" was seized on the said morning of the 2nd August, 1886, and while lawfully pursuing the objects of said voyage, was hailed by United States steam-ship "Corwin," then having in tow the seized vessels "Thornton" and "Carolena." After the usual inquiries as to the name of the vessel, the Commander or officer then in charge of the said "Corwin" ordered the "Favorite" to cease sealing and leave Behring's Sea forthwith, otherwise she would be seized, or words to that effect. The master of the "Favorite," not wishing to risk seizure, and fearing that if he remained in the said sea his vessel and cargo would be so seized as threatened by the Commander of the "Corwin," and for no other reason or reasons whatever, at once made all sail and left the said sealing grounds, thereby losing the remainder of the sealing season.

6. That by reason of so being forced to cease sealing and leave Behring's Sea at about the beginning of the best period of the sealing season, the "Favorite" lost at least 1,000 seal-skins, and her total catch for the season was reduced by that much.

7. That on said voyage the "Favorite" carried twenty hunters and ten canoes. The schooner "Mary Ellen," of Victoria aforesaid, on a similar voyage the same season, with fifteen hunters and five sealing-boats, not seeing or hearing of the said seizures, and remaining in the sea till or about the close of the sealing season, caught 4,256 seal-skins. The actual catch of the "Favorite" for said season was only 3,325, though she had one-third more hunters than the said "Mary Ellen," and equally as good, if not better, chances of obtaining as large a catch; and I verily believe that the sum of the actual catch of the "Favorite," together with the 1,000 herein claimed, making a total of 4,325 for the season of 1886, is a fair and reasonable estimate for the catch of the "Favorite" that year, had she not been interfered with as above set out.

8. That the market price per seal-skin at Victoria at the close of the season of 1886 was 7 dollars, and the amount claimed as the value of 1,000 skins lost to the owner of the "Favorite" by reason of her so leaving the Behring's Sea is 7,000 dollars.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

[Inclosure 4 in No. 90.]

The Marquis of Lansdowne to Sir H. Holland,

GOVERNMENT HOUSE, *Ottawa, January 5, 1888.*

SIR: With reference to previous correspondence, I have the honour to forward herewith a copy of an approved Minute of the Privy Council of Canada, embodying a Report of my Minister of Marine and Fisheries, submitting detailed statements of

the claims of the owners and agents of the "W. P. Sayward," "Grace," "Anna Beck," "Dolphin," "Alfred Adams," and "Ada," seized in the Behring's Sea during the present season for the alleged offence of illegally capturing seals.

143 The Minister, you will observe, is of opinion that the claims submitted are reasonable, and recommends that they be presented to the United States Government.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 5 in No. 90.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 30th December, 1887.

On a Report dated the 19th December, 1887, from the Minister of Marine and Fisheries, submitting detailed statements of the claims of the owners and agents of the following vessels seized in the Behring's Sea during the present season by United States revenue vessels, for the alleged offence of illegally capturing seals:

1. Schooner "W. P. Sayward," seized the 9th July, 1887, latitude 54° 43′ north, longitude 167° 51′ west, 58 miles from nearest land;
2. Steam-schooner "Grace," seized the 17th July, 1887, latitude 53° 3′ north, longitude 168° 40′ west, 92 miles from nearest land;
3. Schooner "Anna Beck," seized the 2nd July, 1887, latitude 54° 58′ north, longitude 167° 26′ west, 66 miles from nearest land;
4. Steam-schooner "Dolphin," seized the 12th July, 1887, latitude 54° 38′ north, longitude 167° 3′ west, 42 miles from nearest land;
5. Schooner "Alfred Adams," seized the 6th August, 1887, latitude 54° 48′ north, longitude 167° 49′ west, 62 miles from nearest land;
6. Schooner "Ada," seized the 25th August, 1887, about 15 miles northward from Ounalaska Island, which was the nearest land;

The Minister represents that the circumstances connected with the seizure of these vessels do not materially differ from those attending the seizures of 1886, and for which claims for the losses sustained have already been forwarded to Her Majesty's Government, for presentation to the Government of the United States.

It may, however, be maintained that the injustice of the seizures made in 1887 is emphasized by the action of the United States Government in ordering the release of the vessels seized in 1886, and thus leading owners of the vessels for which claims are now presented to fairly assume that, under similar circumstances, no further seizures of Canadian vessels in Behring's Sea would be effected by the United States Government.

The Minister believes that the claims submitted herewith, the particulars of which, as far as possible, are attested to, are reasonable, and recommends that they be forwarded to Her Majesty's Government, for presentation to the Government of the United States.

The Committee advise that your Excellency be moved to forward the claims herein mentioned to the Right Honourable the Secretary of State for the Colonies, for transmission to the United States Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 6 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I have been a resident of the said city of Victoria for the past twenty-nine years, and during that time I have been largely interested in the building, equipment, and management of steam and sailing vessels. I have also been engaged in the sealing and fishing business at said city for the past fourteen or fifteen years.
2. The steam-schooners "Grace" and "Dolphin," and the schooner "W. P. Sayward," and the rebuilding and fitting with steam-power of the steam-schooners "Anna Beck" and "Thornton," all of which vessels have been seized in Behring's

Sea by the United States authorities, were built and done for me, and under my personal direction, and were each owned and managed by me for some time after
144 their completion, and are now managed by me for their respective owner and owners. The schooners "Carolena," "Favorite," "Alfred Adams," "Ada," and "Onward," all also seized in Behring's Sea by the United States authorities, were each and all well known to me from personal knowledge. From my interest in the Behring's Sea sealing business, I kept myself well posted on the matter and manner of the condition and equipment of the said vessels, and most of the facts stated in the declarations of claim in the case of each of these vessels came under my personal observation. The said vessels, excepting the "Thornton," "Onward," and "Carolena," which are at Ounalaska, are at Sitka, in the United States Territory of Alaska.

3. To bring these vessels from Sitka to Victoria, a distance of about 900 miles, will involve a cost of at least 1,600 dollars to purchase the necessary materials and take them to Sitka, and to convey the necessary men to Sitka and pay their wages. From leaving Victoria until arrival back with any one of said vessels would take about two months, or perhaps a few days less in the summer months, and a few days more in the winter months.

4. A full hunting and sealing season begins as early as the 1st January and up till the 1st March, and extends thence until the end of September.

This season is divided into two parts, the coast season and the Behring's Sea season. The coast season terminates about the end of June, but vessels intending to go to Behring's Sea generally leave the coast fishing during the month of May, sealing as they go northward, and reaching Behring's Sea the end of June or beginning of July. The best period of the sealing season in Behring's Sea varies in different years according to the prevailing weather from about the 20th July to the end of September, after which date, though seals are plentiful, stress of weather compels sealing-vessels to leave the sea and go south.

5. On sealing voyages the hunters are paid in lieu of wages so much per seal skin on each skin they capture, receiving from 2 to 2¼ dollars per skin. The masters are generally paid partly in wages and partly in the same manner as the hunters.

The only vessel in the Behring's Sea in either of the seasons of 1886 or 1887 that made a reasonably full catch of seals was the schooner "Mary Ellen," of Victoria, which, in the season of 1886, took 4,256 seal-skins. On and for said season the "Mary Ellen" carried fifteen hunters and five boats, an average catch per boat of 851 seal-skins, the five boats being about equal to eight or nine canoes. The "Mary Ellen" was the only vessel in Behring's Sea in either 1886 or 1887 which, so far as I know, or am able after inquiry to learn, remained the full season in said sea on and about the best sealing grounds without being disturbed by the United States authorities. And I believe that the said steam-schooners "Grace Dolphin" and "Anna Beck," and the said schooner "W. P. Sayward," which were the best equipped vessels for sealing that had ever entered the Behring's Sea, would have, if not seized or disturbed by the United States authorities, made an equally large catch in said years 1886 and 1887, there being no reason why they should not do so.

6. The masters of the steam-schooner "Thornton" and schooner "Onward," and the mate of the schooner "Carolena," after their arrival at Sitka as prisoners in the latter part of August, entered into an agreement with one Clarke, a counsellor-at-law at Sitka, to defend their vessels and themselves on their pending trial at Sitka before the United States District Court, and the charge of 500 dollars for legal expenses at Sitka in the case of each of the said vessels is to cover the claim of said Clarke.

7. The wages of the crew of each of the said seized vessels, except the "Alfred Adams" and "Onward," are based on two months' service expiring on the day of seizure in each case. In the "Adams" and "Onward" cases, the crews were paid up to the time of their arrival at Victoria.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me, at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) J. M. BALDERSON,
Notary Public for Ontario.

145 [Inclosure 7 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent, by power of attorney bearing date the 4th November, A. D. 1886, of Thomas H. Cooper, of the city of San Francisco, in the State of California, one of the United States of America, the managing owner of the hereinafter mentioned schooner "W. P. Sayward."

2. That the said Thomas H. Cooper is, as I am informed and do verily believe, a British subject by birth, and has never renounced his allegiance to the Sovereign of Great Britain.

3. That the said schooner "W. P. Sayward" is a British vessel, having been built at Victoria aforesaid in A. D. 1882, and duly registered at the port of Victoria aforesaid, and was at the time of her seizure, as hereinafter set out, so registered. The said "W. P. Sayward" is 135½ tons burden, by builder's measurement, and is a well and strongly built vessel.

4. That on the 16th day of May, A. D. 1887, after having duly cleared at Customs at the port of Victoria aforesaid for such purpose, the "W. P. Sayward" sailed from Victoria on and for a full hunting and fishing voyage in the North Pacific Ocean and Behring's Sea. On said voyage George E. Ferey, of the said city of Victoria, was master; Andrew Laing, of the same place, mate; and the crew numbered, in addition to the master and mate, twenty-two or twenty-three, with nine canoes and one boat for hunting and sealing purposes.

5. On the 2nd day of July then next following the said "W. P. Sayward" entered Behring's Sea, having then on board, as by the report of the master sent to me, 479 seal-skins, all taken on the voyage from Victoria to Behring's Sea prior to the said 2nd day of July. After entering the said sea the weather was very thick, and no sealing was done by the "W. P. Sayward."

6. On the 9th day of said July, the "W. P. Sayward" then being in latitude 54° 43′ north and longitude 167° 51′ west, and about 58 miles from Ounalaska Island, the nearest land, and lawfully pursuing the objects of her voyage, was seized by the United States steam-ship "Richard Rush," and taken to Illoolook Harbour, at Ounalaska Island, in the United States' Territory of Alaska. At said harbour the seal-skins on board the "W. P. Sayward" were taken out and stored on shore, and the "W. P. Sayward" was, by order of the authorities of the United States, sent to Sitka, in the said Territory of Alaska, in charge of an officer from said "Richard Rush," together with all her crew.

7. Upon arrival at Sitka the "W. P. Sayward" was handed over to United States Marshal Atkins, the master and mate of the "W. P. Sayward," the said George E. Ferey and Andrew Laing, were taken before a Judge and bound over to appear for trial on the 22nd day of August then instant, and from day to day thereafter, on a charge of having violated the laws of the United States relating to seal-fishing in the waters of Alaska. The said master and mate so appeared on the 22nd August and day by day thereafter, until the 9th day of September, when, without having been tried on said charge or any other charge whatever, they were unconditionally released.

8. That hereto annexed, marked "(A)," is a statement of the value of the said schooner "W. P. Sayward" at the time of her seizure by the "Richard Rush," also of the articles, and groups of articles, and the value thereof, comprising the outfit of the "W. P. Sayward" on and for said voyage, also of the amount of premiums paid for insurance of the hull, outfit, and cargo of said schooner during said voyage; also of the amount paid in wages to the crew and hunters on said voyage; also of the fares and expenses of the mate to and from Victoria for instructions, and of the master, mate, and part of the crew in returning to Victoria from Sitka; and also of the number and value of the seal-skins taken from the said schooner when seized.

9. The value placed on the schooner "W. P. Sayward" in said Exhibit (A), namely, 6,000 dollars, is a fair and reasonable valuation of the said schooner, considering her original cost, which was about 7,000 dollars, the condition of repair she was in when seized, and the value of vessels of her class at Victoria aforesaid, for such purposes as the "W. P. Sayward" was designed and used. Immediately before going on said voyage she was thoroughly repaired and refitted, and, at the time of
146 her seizure, was in first-class order and condition. Besides the outfit mentioned in Exhibit (A), there was on board the "W. P. Sayward," when seized, a considerable quantity of extra gear, tackling, and ship stores. The insurance

value of the "W. P. Sayward," for the year 1887, was 6,000 dollars, and on and during said voyage she was insured in the sum of 1,000*l.* on her hull, and in 2,000*l.* on her outfit and cargo.

10. The value placed on the various articles and groups of articles comprising the outfit of the said schooner, as given in Exhibit (A), is the market price for each of said articles at Victoria aforesaid at the time of their purchase for the use and purposes of said voyage. The price charged in Exhibit (A) for the seal-skins on board the "W. P. Sayward" when seized, namely, 5 dol. 50 c. per skin, is the market price per skin current at Victoria aforesaid on or about the close of the sealing season of 1887, when the catch of the "W. P. Sayward," had not such seizure taken place, would have been placed on the said market.

11. That hereto annexed, marked "(C)," is a statement of the legal and personal expenses incurred at Sitka and elsewhere by reason of the seizure of the "W. P. Sayward," the arrest and detention of her master and mate, and the claims arising therefrom.

12. That hereto annexed, marked "(D)," is an estimate of the loss and damage resulting to the owner thereof by reason of the seizure and detention of the schooner "W. P. Sayward" during the season of 1887, and the probable loss from the same cause for the season of 1888. The estimated catch of seals by the "W. P. Sayward" for the season of 1887 is based upon an average catch of 350 seals per boat and canoe for a full season, and I verily believe, had the above seizure not taken place, that, under ordinary circumstances, the total catch of the "W. P. Sayward" for said full season would have been at least the said number of 3,500 seals.

13. That after the close of the sealing season, and during the months of October, November, and December, A. D. 1887, and January 1888, had the "W. P. Sayward" been in her owner's possession she would have been engaged in the coasting and general freighting trade in and about the coasts of British Columbia, and the said claim of 300 dollars per month for each of said months is a fair and reasonable estimate of the earnings of the "W. P. Sayward" for and during said months, after deducting therefrom the cost of wages and running expenses.

14. In order to put the "W. P. Sayward" in order and condition to engage in hunting and fishing the full season of 1888, it is necessary that she should be in her owner's possession at Victoria aforesaid on or before the 1st day of February, A. D. 1888. If not then at Victoria it will be impossible to repair and refit her in time to start out on a full season voyage which begins about the 1st March. As during the summer months there would be little for a vessel like the "W. P. Sayward" to do in the coasting and local freighting trade, if she were not got away on a fishing and hunting voyage the season would be practically lost. The estimated profit on a full season of hunting and fishing by the "W. P. Sayward" in 1888, namely, 6,000 dollars, is a fair and reasonable catch estimate, based on a catch of 3,500 seal-skins, and, deducting from the gross value thereof, at 5 dol. 50 c. per skin, the cost of outfit and wages based on the "W. P. Sayward's" voyage of 1887.

15. That hereto annexed, marked "(E)," is a statement of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which it is so claimed. On the 1st October, A. D. 1887, on or about which date the catch of the "W. P. Sayward" for 1887 would have been, in the ordinary course of events, realized on, the minimum rate of interest on money for commercial purposes at the said city of Victoria was, has since continued to be, and now is, 7 per cent. per annum.

16. That hereto annexed, marked "(F)," is a statement of the articles, and groups of articles, and the value thereof, comprised in the outfit of the "W. P. Sayward" on said voyage as given in Exhibit (A), which would have been wholly or almost wholly consumed in the course and prosecution of a full season's hunting and fishing voyage, such as contemplated by the "W. P. Sayward" in 1887.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR, *Notary Public.*

147 EXHIBIT (A).

Value of the schooner "W. P. Sayward" at the time of her seizure by United States steam-ship "Richard Rush" on the 9th July, A. D. 1887		$6,000.00
Value of "W. P. Sayward's" outfit on said voyage:		
Groceries	$856.67	
Ammunition	202.76	
Dry goods	95.75	
Two iron tanks	50.00	
Water-casks	25.00	
Ship chandlery	101.40	
Four No. 10 shot guns	160.00	
Two rifles	45.00	
Gun implements and tools	9.00	
One sealing-boat (returned)		
Nine canoes and outfits	513.00	
8 tons salt	120.00	
5 tons coal	35.00	
Cooking range and utensils	75.00	
		2,288.58
Insurance:		
Premium on 1,000*l.* on hull, 84*l.* 6*s.* 8*d*	410.70	
Premium on 2,000*l.* on cargo, 105*l.* 13*s.* 4*d*	514.59	
		925.29
Wages paid sailors and hunters for voyage up to time of seizure		1,437.75
Passage money of mate to Victoria for counsel and instructions and return	100.00	
Fares of master and mate on return to Victoria, and personal expenses	150.00	
Fares of seventeen men (crew) from Fort Simpson to Victoria	255.00	
		505.00
479 seals on board "W. P. Sayward" when seized, at 5 dol. 50 c. per skin		2,634.50
Total, Exhibit (A)		13,791.12

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (G).

Legal expenses at Sitka in connection with the seizure of the "W. P. Sayward"	$100.00
Counsel and other legal fees and expenses in and about the claims arising from said seizure	750.00
Personal expenses of the owner in connection with said seizure and claims	250.00
Total, Exhibit (C)	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D).—Damages arising from the Seizure and Detention of the "W. P. Sayward," during the Season of 1887, based upon her reasonable and probable Catch of Seals for that Season.

Estimated catch of seal-skins	3,500	
Less on board at seizure	479	
Balance, at 5 dol. 50 c. per skin	3,021	= $16,615.50
Loss to owners of "W. P. Sayward" by reasonof her detention after the close of the sealing season of 1887, namely, for the months of October, November, and December, A. D. 1887, and January, A. D. 1888, when the "W. P. Sayward," if in owner's possession, would have been engaged in coasting trade. Four months, at 300 dollars per month		1,200.00
If owner not put in possession of "W. P. Sayward" on or before the 1st February, 1888, so that she may be put in order and condition to engage in fishing and hunting voyage for season of 1888, reasonable and probable profit for the season of 1888		6,000.00

148 EXHIBIT (E).—Estimate of the Principal Sums on which Interest is claimed at 7 per cent. per annum, and the Time for which it is so claimed.

Value of the estimated catch of the "W. P. Sayward" for season of 1887, from the 1st day of October, A. D. 1887, when said catch would have been realized on, viz., 3,500 skins, at 5 dol. 50 c. per skin	$19,250.00
Actual outlay for legal and other expenses on account of said seizure prior to the 1st October, 1887	605.10
Total principal on which interest at 7 per cent. per annum from the 1st October, 1887, is claimed	19,855.10

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).—Value of estimated Consumption of Articles of "W. P. Sayward's" Outfit on a full Voyage.

Groceries	$856.67
Ammunition	202.76
Dry goods	95.75
Ship chandlery	101.40
Salt	120.00
Coal	35.00
Wages	1,437.75
Insurance premiums	925.29
Total consumption	3,774.62

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the season of 1887, as set out in Exhibit (D), be allowed, then the amount of this exhibit, 3,774 dol. 62 c., will properly appear as a credit, and be deducted from the total of Exhibit (A), of which it forms a part.

[Inclosure 8 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Thomas H. Cooper, of the city of San Francisco, in the State of California, one of the United States of America, the owner of the hereinafter-mentioned steam-schooner "Grace," by power of attorney bearing date the 4th day of February, A. D. 1886.

2. That the said Thomas H. Cooper is, I am informed and do verily believe, a British subject by birth, and never having renounced his allegiance to the Sovereign of Great Britain.

3. That the said steam-schooner "Grace" is a British vessel built at Victoria aforesaid, in A. D. 1881, and duly registered at the port of Victoria aforesaid. By builder's measurement the "Grace" is about 182 tons burden. She is substantially and strongly built, copper fastened throughout, and in A. D. 1885 her bottom and sides to about half-load-line were coppered. Her steam power consists of one large boiler, compound engines, and all necessary fittings, including inside surface condenser, steam fire pumps and hose, and also had on board a double steam cargo winch.

4. The said "Grace" was duly licensed as a passenger boat, and had all the appliances and conveniences required by Canadian law for such vessels.

5. That as such agent as aforesaid, I am the sole manager of the said steam-schooner "Grace" for the said Thomas H. Cooper.

149 6. That on or about the 23rd day of April, A. D. 1887, having previously duly cleared therefor at the port of Victoria aforesaid, the said steam-schooner

"Grace" sailed from Victoria on and for a full season hunting and fishing voyage in the North Pacific Ocean and Behring's Sea. On said voyage the crew of the "Grace" consisted of William Petit, of Victoria aforesaid, master, a mate, and twenty-nine sailors and hunters.

7. That on the 6th or 7th day of July following the "Grace" entered the Behring's Sea along the 172nd west meridian, through the Amoughta Pass, commonly called the "172nd Pass," having then on board 458 seals taken while on the voyage from Victoria aforesaid to the said pass.

8. That on the 12th day of said July, A. D. 1887, the "Grace" began sealing in said Behring's Sea, and from then till she was seized as hereinafter set out caught 323 seals. On the 17th day of the said month of July the United States steam-ship "Richard Rush" seized the said steam-schooner "Grace" for alleged violation of the laws of the United States of America respecting seal-fishing in the waters of Alaska. At the time of said seizure the "Grace" was in north latitude 55° 3′ and west longitude 168° 40′, then being about 92 miles from Ounalaska Island, the nearest land, and, as I verily believe, lawfully pursuing the objects of said voyage.

9. The "Grace" after being seized was taken to Ounalaska, in the Territory of Alaska, where by order of the United States authorities thereat, all the seal-skins on board, except as hereinafter stated, were taken out and stored at Ounalaska, and all the firearms and ammunition taken on board the said "Richard Rush." On removing the seal-skins twelve were missing. Five were afterwards discovered on board the "Grace" and not removed, the remaining seven were not, so far as I know, ever found.

10. After removal from the "Grace" of the said seal-skins as stated in the preceding paragraph 8, a United States officer was placed on board the "Grace," and she was, in charge of said officer, taken to Sitka, in the Territory of Alaska, together with all the crew and hunters. On arrival at Sitka on the 1st August United States Marshal Atkins took charge of the "Grace." The master, the said William Petit, was bound over to appear for trial on the 22nd day of August then instant, on a charge then preferred against him of having violated the laws of the United States respecting seal-fishing in the waters of Alaska. The said master so appeared for trial on the 22nd instant, and thereafter day by day until the 9th day of September next following, when, without having been brought to trial on such a charge or any other charge whatever, he was unconditionally released.

11. That hereto annexed, marked "(A)," is a statement of the value of said steam-schooner "Grace" at the time of her seizure, and of the outfit then on board, also of the premiums paid for insurance on the hull, outfit, and cargo of the "Grace" for and during said voyage; also of the amount of wages paid the crew and hunters on and for said voyage up to time of seizure; also of the expenses and fares of the master and five men at and from Sitka to Victoria aforesaid, and also of the number of the seal-skins on board at the time of seizure, and the value thereof.

12. That the value placed upon the said steam-schooner "Grace" at the time of her seizure, namely, 12,000 dollars, is based upon the original cost of the said vessel, the state of repair she was then in, and the general market value of the vessels of the same class at the said port of Victoria, and for the same purpose for which she was designed. The first cost of the "Grace" was between 16,000 and 17,000 dollars. At the time of her seizure she was 6 years old, and in 1885 had been thoroughly repaired, coppered as aforesaid, and generally put in first-class order and condition. On her departure on said voyage she was in good order and condition, and had on said voyage up to the time of seizure sustained no damage beyond ordinary wear and tear. Her insurance value for said year 1887 was placed at 12,500 dollars, and she was, while on said voyage, insured for the sum of 2,000*l.*, and the said value of 12,000 dollars at the time of her seizure is a reasonable and fair value for the said steam-schooner "Grace."

13. That the value in Exhibit (A) placed on the articles, and groups of articles, comprising the outfit of the said "Grace" is the cost price of the said articles at the port of Victoria at the time of their purchase for the purposes of said voyage. In addition to the outfit named in Exhibit (A), there was on board the "Grace" at the time of her seizure a considerable quantity of general ship stores.

14. The price per seal-skin charged in Exhibit (A), namely, 5 dol. 50 c. per skin for the seal-skins on board the "Grace" when seized and taken out at Ounalaska was the market price at Victoria at the close of the sealing season of 1887, when the catch of the "Grace" for that season, in the ordinary course of events, would have been placed on the market.

15. That hereto annexed, marked "(C)," is a statement of the legal expenses incurred at Sitka and elsewhere by reason of the seizure of the "Grace" and
150 the arrest of the captain, and the claims arising therefrom, and also of the personal expenses connected therewith.

16. That hereto annexed, marked "(D)," is a statement of the amounts claimed by the owner of the steam-schooner "Grace" by reason of her seizure and detention during the season of 1887, and of the loss arising from the detention of the said "Grace" after the close of said season.

17. The estimated catch by the "Grace" for the season of 1887, namely, 4,200 seal-skins, is based upon a reasonable and probable catch per boat or canoe for that season. Experience in sealing has proved that the greater number of boats or canoes, or both, carried by any one sealing-vessel, the smaller the average per canoe or boat, and it is in view of this that the average per canoe for the "Grace" is put at 300 per canoe, while the average for the steam-schooner "Anna Beck" for the same season is placed at 350, the latter carrying eight canoes and one boat, while the former carried twelve canoes and two boats. The said average catch of 300 seal-skins per canoe and boat for the "Grace" is a fair average catch, and I verily believe that, had the "Grace" not been seized as aforesaid, her catch for the season of 1887 would have exceeded the said number of 4,200 seal-skins.

18. That during the months of October, November, and December, A. D. 1887, and January, A. D. 1888, had the "Grace" been in possession of her owner, she would have been engaged in the coasting trade between the various ports of British Columbia. The estimated loss per month of 500 dollars for each of said months is a fair and reasonable estimate of the earnings of the said steam-schooner "Grace" for the said months of October, November, December, and January, after deducting the cost of wages and ordinary running expenses, and I verily believe that the "Grace" would have earned the said sum per month had she been in her owner's possession.

19. That in order to engage in the hunting and fishing of next year, namely, A. D. 1888, and in view of the fact that the "Grace" will require the usual overhauling and fitting out before being sent on so long a voyage, the latest date at which it will be possible to begin necessary repairs and refitting, and have them completed in order to leave at or about the usual date on said hunting and fishing voyage, will be on or about the 1st day of February, A. D. 1888. If the "Grace" be not delivered to the owners at Victoria on or before that date, it will be too late to repair and refit her for a full season hunting and fishing voyage, which begins on or about the 1st March of each year. During the summer months, for a vessel of the class and equipment of the "Grace," there is very little to do in and about the coasting trade, and the season in the event of the "Grace" not being in the possession of her owner on or before the 1st February, A. D. 1888, would be practically lost to her owner. The claim for loss if detained beyond the 1st February aforesaid is a fair and reasonable estimate of the loss which will in such cases be sustained by the owner of the "Grace."

20. That hereto annexed, marked "(E)," is an estimate of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which it is so claimed. On the 1st day of October, A. D. 1887, when the catch of the "Grace" would have been, in the ordinary course of events, realized on, the minimum rate of interest on money for commercial purposes at the said city of Victoria was, has since continued to be, and now is, 7 per cent. per annum.

21. That hereto annexed, marked "(F)," is a statement of the articles, and groups of articles, and the value thereof, from Exhibit (A), which would have been wholly, or almost wholly, consumed in the course and prosecution of the said voyage, had not the "Grace" been seized and detained as aforesaid.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

151 EXHIBIT (A).

Value of the steam-schooner "Grace" at the time of her seizure		$12,000.00
Outfit:		
Groceries	$948.13	
Ammunition	166.63	
Dry goods	276.17	
Three iron water-tanks	66.00	
Water-casks	25.00	
Ship chandlery	161.18	
Twelve No. 10 shot guns	480.00	
Three rifles	77.50	
One small cannon on carriage for signalling	50.00	
Gun implements and tools	10.50	
Two sealing boats and outfits	249.57	
Twelve canoes and outfits	684.00	
8½ tons of salt	127.50	
33 tons of coal	231.00	
Cooking range and utensils	100.00	
		3,653.18
Insurance:		
Premium on 2,000*l.* insurance on hull	821.40	
Premium on 2,000*l.* insurance on outfit and cargo	514.59	
		1,335.99
Wages paid crew and hunters on voyage up to time of seizure		2,164.25
Fares from Sitka to Victoria of master and five of the crew, and master's expenses at Sitka		200.00
781 seal-skins on board the "Grace" when seized, at 5 dol. 50 c. per skin		4,295.50
Total, Exhibit (A)		23,648.92

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure of the "Grace" and arrest of master	100.00
Counsel and other legal fees and expenses in and about the seizure of the "Grace," and other claims arising thereunder	750.00
Personal expenses in the same connection	250.00
Total	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D).—Estimated Loss and Damage to the Owner of the "Grace," by reason of her Seizure and Detention, during A. D. 1887.

Reasonable and probable catch of seals for the season of 1887	4,200		
Less number on board when seized, and charged in Exhibit (A)	781		
Balance at 5 dol. 50 c. per skin	3,419	=	$18,804.50
Reasonable earnings of "Grace" during months of October, November, and December 1887, and January 1888, had she been in owner's possession, viz., four months at 500 dollars each			2,000.00
Estimated loss for sealing season of 1888, if "Grace" not in possession of owner on or before 1st February, 1888			7,000.00
Total			27,804.50

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

152 EXHIBIT (E).—Estimate of the principal sums on which Interest at 7 per cent. per annum is claimed, and the Time for which such Interest is so claimed.

Value of the "Grace's" estimated catch of seals for 1887, from the 1st October, A. D. 1887, on or before which date the said catch would have been realized on, viz., 4,200 skins at 5 dol. 50 c. per skin	$23,100.00
Cash expended for legal and other expenses on account of such seizure up to said date	300.00
Total principal on which interest is claimed at 7 per cent. per annum from 1st October to date of payment	23,400.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).—Value of the Articles of the "Grace's" Outfit which would have been wholly, or almost wholly consumed, on a full hunting and fishing voyage.

Groceries	$948.13
Ammunition	166.63
Dry goods	276.17
Ship chandlery	161.18
Salt	127.50
Coal	231.00
Wages	2,164.25
Insurance premiums	1,335.99
Total value consumed	5,410.85

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the season of 1887, as set out in Exhibit (D) be allowed, then the amount of this Exhibit, 5,410 dol. 85 c., will properly appear as a credit, and be deducted from the total of Exhibit (A) of which it forms a part.

[Inclosure 9 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Thomas H. Cooper, of the city of San Francisco, in the State of California, one of the United States of America, engineer, by power of attorney bearing date the 4th day of November, A. D. 1886, the owner of the hereinafter-mentioned steam-schooner "Anna Beck."

2. That the said Thomas H. Cooper is, as I am informed and verily believe, a British subject by birth, and has never renounced his allegiance to the Sovereign of Great Britain.

3. That the said steam-schooner "Anna Beck" is a British vessel since A.D. 1872, when she was transferred by purchase from the Registry of the port of San Francisco aforesaid to that of Victoria aforesaid, and has since remained on the Registry of the port of Victoria. In 1883 the "Anna Beck" was rebuilt and raised, and in the winter of 1880–81 she was fitted up with steam-propellor, and all the machinery and appliances necessary for such a purpose. The cost of said steam-power and rebuilding was over 8,000 dollars.

4. That as agent, as aforesaid, of the said Thomas H. Cooper, I am the sole manager of the said steam-schooner "Anna Beck."

5. That on the 21st March, A. D. 1887, the said "Anna Beck" sailed from Victoria, having previously cleared for that purpose, on a full season's hunting and fishing voyage in the North Pacific Ocean and Behring's Sea. On or about the 25th day of May then next following the "Anna Beck" sailed from the west coast of Vancouver Island for Behring's Sea. On and for said voyage to Behring's Sea the crew of
153 "Anna Beck" consisted of Louis Olsen, of the said city of Victoria, master; Michael Keefe, of the same place, mate; and twenty-one sailors and hunters, with one sealing-boat and eight canoes, and a complete outfit for a full voyage of hunting and fishing in Behring's Sea.

6. That on or about the 28th day of June, A. D. 1887, the "Anna Beck" entered the Behring's Sea, and on the 2nd day of July, A. D. 1887, while in said sea, in latitude 54° 58′ north and longitude 167° 26′ west, then being about 66 miles from the nearest land, and lawfully engaged in the objects of said voyage, the "Anna Beck" was seized by the United States steam-ship "Richard Rush," for alleged violation of the laws of the United States respecting seal-fishing in the waters of Alaska.

7. That at the time of said seizure the "Anna Beck" had on board 334 seal-skins, most of which had been taken by the "Anna Beck" on her voyage up to the time of entering said sea, and not afterwards. After seizure, the "Anna Beck" was, by the authority of the Commander of the "Richard Rush," taken to Illoolook Harbour, at Ounalaska Island, in the United States Territory of Alaska, where the said seal-skins were taken out and stored on shore, and the arms and ammunition transferred to the said "Richard Rush," either at sea or in said harbour. The master, mate, and crew of the "Anna Beck" were sent to Sitka, in said Territory of Alaska, on the American schooner "Challenge." On their arrival at Sitka aforesaid the master and mate of the "Anna Beck" were taken before a Judge, and bound over to appear before said Judge on the 22nd August then instant, for trial, on a charge of having violated the laws of the United States respecting seal-fishing in the waters of Alaska. The master and mate so appeared for trial on the 22nd day of August, A. D. 1887, and thereafter from day to day until the 9th day of September then next following, when, without having been brought to trial on said charge, or on any other charge whatever, they were unconditionally released.

8. That hereto annexed, marked "(A)," is a statement showing the value of the said steam-schooner "Anna Beck" at the time of her seizure as above set out, excepting only what had been consumed in the ordinary course and prosecution of the said voyage; also of the outfit, and value thereof, of the "Anna Beck" on said voyage; also of the amounts paid for insurance premiums on the hull, outfit, and cargo of the "Anna Beck" on and during said voyage; also of the amount of wages paid to the crew and hunters for said voyage up to the time of said seizure; also of the fares and expenses of the master and mate from Sitka to Victoria, and of sixteen of the crew of the "Anna Beck" from Fort Simpson to Victoria; and also of the number and value of the seal-skins taken from the said "Anna Beck" after such seizure at Ounalaska Island.

9. The value placed on the said steam-schooner "Anna Beck," namely, 8,000 dollars, is based upon her cost, the order and condition in which she was when seized, and the value of similar vessels at Victoria aforesaid. As stated in the preceding paragraph 3 of this declaration, the "Anna Beck" was fitted with steam propelling power in A. D. 1880–81, and in A. D. 1883 was rebuilt and raised at a total cost of over 8,000 dollars. At the time of her seizure she was in first-class order and condition, having been thoroughly overhauled and refitted for said voyage, and the value claimed for her, namely, 8,000 dollars, is a fair and reasonable value for her at the time of her said seizure.

10. The prices charged in Exhibit (A) for the articles, and groups of articles, comprising the outfit of the "Anna Beck" on said voyage are the market prices at Victoria aforesaid at the time of their purchase for the use and purposes of said voyage, and the price per skin charged for the seal-skins taken from the "Anna Beck" when seized is the market price per skin current at Victoria aforesaid at the close of the season of 1887, when, in the ordinary course of events, the catch of the "Anna Beck" would have been placed on said market.

11. That hereto annexed, marked "(C)," is a statement of the legal and personal expenses at Sitka and elsewhere arising out of the seizure and detention of the "Anna Beck," the arrest of her master and mate, and the claims arising therefrom.

12. That hereto annexed, marked "(D)," is a statement of the estimated loss and damage to the owner of the said "Anna Beck," by reason of her seizure and detention as aforesaid for the years A. D. 1887 and A. D. 1888. The estimated catch of seals for the season of 1887, namely, 3,150, is calculated upon an average catch per boat and per canoe of 350 seals, which is a fair and reasonable estimate of the probable catch per boat and per canoe for the boat and each of the canoes of the said "Anna Beck" during the season of 1887.

13. After the close of the sealing season of 1887, and during the following months of October, November, and December, A. D. 1887, and January, A. D. 1888, had the said steam-schooner "Anna Beck" been in possession of her said owner, she would have been engaged in the general coasting and freighting trade in and about the coasts of British Columbia aforesaid, and the reasonable and probable earnings
154 of the "Anna Beck" for said months of October, November, December, and January, after deducting from the gross amount thereof the cost of wages and running expenses, would be at least 500 dollars per month for each of the said months.

14. In order that the "Anna Beck" may be repaired and refitted in time to engage in the full season's hunting and fishing voyage for A. D. 1888, it is necessary that she

should be in her owner's possession at Victoria aforesaid on or about the 1st day of February, A. D. 1888. If not at that date at Victoria and in possession of her owner, it will be impossible to put her in fit and proper condition to start out on said voyage at or about the usual time, which is on or about the 1st March in each year. During the summer months there is little for a vessel of the class and equipment of the "Anna Beck" to do in and about the general coasting trade, and if not engaged in hunting and fishing aforesaid the season would be practically lost. The claim of 6,000 dollars as probable loss and damage to the owner of the "Anna Beck" if she is detained after the 1st February, A. D. 1888, is a fair and reasonable estimate of his said loss by reason of such detention, for the season of 1888.

15. That hereto annexed, marked "(E)," is a statement of the principal sums on which interest is claimed, the rate thereof, and the time from and to which it is so claimed. At the time when the catch of the "Anna Beck" for 1887 would have been realized, on or about the 1st October, 1887, the minimum rate of interest on money for commercial purposes at Victoria aforesaid was, has since continued to be, and now is, 7 per cent. per annum.

16. That hereto annexed, marked "(F)," is a statement of the articles of the outfit of the said "Anna Beck," and the value thereof, as given in Exhibit (A), which would have been wholly or almost wholly consumed during the course and prosecution of a full hunting and fishing voyage in the Behring's Sea.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

EXHIBIT (A).

Value of steam-schooner "Anna Beck" at time of seizure by United States steam-ship "Richard Rush" on 2nd July, A. D. 1887		$8,000.00
Value of "Anna Beck's" outfit:		
Groceries	$876.42	
Ammunition	242.60	
Dry goods	95.76	
Four iron tanks	82.00	
Casks	10.00	
Ship chandlery	240.06	
Four No. 10 shot guns	160.00	
Two rifles	45.00	
Gun implements and tools	9.00	
One sealing-boat and outfit	140.50	
Eight canoes and outfit	456.00	
8 tons salt	100.00	
25 tons coal	175.00	
Cooking range and utensils	75.00	
		2,727.34
Insurance:		
Premium on 1,400*l.* on hull (118*l.* 1*s.* 4*d.*)	574.98	
Premium on 2,000*l.* on outfit (105*l.* 13*s.* 4*d.*)	514.59	
		1,089.57
Wages paid crew and hunters up to time of seizure		1,111.50
Passage and expenses of captain and mate from Sitka, and sixteen of the crew of the "Anna Beck" from Fort Simpson to Victoria		460.54
334 seal-skins on board the "Anna Beck" at time of seizure, at 5 dol. 50c. per skin		1,837.00
Total, Exhibit (A)		15,225.95

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

155 EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure of the "Anna Beck"	$100.00
Counsel and other legal fees and expenses in and about the claims arising from said seizure	750.00
Personal expenses of the owner in connection with said seizure and claims.	250.00
Total	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D).—Damages arising from the Seizure and Detention of the "Anna Beck" during the season 1887, based upon her reasonable and probable Catch of Seals for that season.

Estimated catch	3,150	
Less skins on board when seized	334	
Balance at 5 dol. 50 c. per skin	2,816	= $15,488.00
Loss to owner of "Anna Beck" by reason of her detention after the close of the sealing season of 1887, namely, for the months of October, November, and December, A. D. 1887, and January 1888, during which time the "Anna Beck," if in owner's possession, would have been engaged in coasting trade: four months at 500 dollars		2,000.00
If owner not put in possession of "Anna Beck" on or before 1st February, A. D. 1888, so that she may be put in order and condition to engage in fishing and hunting voyage for 1888, reasonable and probable profit for the season of 1888		6,000.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).—Estimate of the Principal Sums on which Interest, at 7 per cent. per annum, is claimed, and the Time for which said Interest is so claimed.

Value of "Anna Beck's" estimated catch of seals for 1887, about which date said catch would have been realized on, namely, 3,150 seal-skins at 5 dol. 50 c.	$17,325.00
Outlay for legal and other expenses prior to 1st October, 1887	560.54
Total principal on which interest at 7 per cent. per annum is claimed from 1st October, 1887, to date of payment	17,885.54

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).—Articles of the "Anna Beck's" Outfit, and Value thereof, as found in Exhibit (A), which would have been wholly, or almost wholly, consumed on said Voyage had it not been broken up.

Groceries	$876.42
Ammunition	242.60
Dry goods	95.76
Ship chandlery	240.06
8 tons salt	120.00
25 tons coal	175.00
Insurance	1,089.57
Wages	1,111.50
Total value consumed	3,950.91

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the sealing season of 1887, as set out in Exhibit (D), be allowed, then the amount of this Exhibit, 3,950 dol. 91 c., will properly appear as a credit, and be deducted from the total of Exhibit (A), of which it forms par-

156 [Inclosure 10 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Thomas H. Cooper, of the city of San Francisco, in the State of California, one of the United States of America, the owner of the hereinafter-mentioned steam-schooner "Dolphin," by power of attorney bearing date the 4th day of November, A. D. 1886.

2. That the said Thomas H. Cooper is, as I am informed and do verily believe, a British subject by birth, and never having renounced his allegiance to the Sovereign of Great Britain.

3. That the said steam-schooner "Dolphin" is a British vessel, built at Victoria aforesaid in A. D. 1882, and duly registered at the port of Victoria aforesaid. By builder's measurement the "Dolphin" is 174 tons burden. She was substantially built, coppered to above light water-line, and copper-fastened when built, and had not up to the time of her seizure hereinafter set out sustained any damage or strain beyond ordinary wear and tear. Her steam-power consists of one large steel boiler, put in during the winter of 1884–85, compound engines and all the necessary fittings, including inside surface condenser, and also steam fire-pumps and hose, and a double steam cargo winch.

4. The said steam-schooner "Dolphin" was duly licensed as a passenger-boat, and had all the appliances and conveniences required by Canadian laws for such vessels.

5. That as such agent as aforesaid, I am the sole manager of the steam-schooner "Dolphin" for the said Thomas H. Cooper.

6. That on the 16th day of May, A. D. 1887, having previously cleared at the port of Victoria for that purpose, the said "Dolphin" sailed from Victoria on and for a full season's hunting and fishing voyage in the North Pacific Ocean and Behring's Sea, and on and for said voyage the crew of the "Dolphin" consisted of myself as master, John Reilly mate, and crew of thirty-one sailors and hunters.

7. That on the 6th day of July, A. D. 1887, the "Dolphin" entered the said Behring Sea through the Amoughta Pass, commonly called the "172nd Pass," having then on board 590 seals, taken while on the voyage up through the North Pacific Ocean from Victoria aforesaid to Amoughta Pass aforesaid.

8. On the 9th day of said month of July the "Dolphin" began catching seals in Behring's Sea, then being in north latitude 54° 18′, and west longitude 168° 40′, and from said 9th day of July until the afternoon of the 12th day of said month of July the "Dolphin" caught twenty-eight seals in said Behring's Sea.

9. That on the afternoon of the 12th day of July, A. D. 1887, the United States steam-ship "Richard Rush" seized the said steam-schooner "Dolphin" while lawfully pursuing the objects of said voyage, and then being in north latitude 54° 38′, and west longitude 167° 3′, and about 42 miles from Ounalaska Island, the nearest land, for an alleged violation of the laws of the United States respecting seal-fishing in the waters of Alaska. That when said seizure was made the "Dolphin" was lawfully persuing the objects of said voyage. When the Commander of the said "Richard Rush" made the said seizure he told me that his instructions were to seize everything he found in the sea, or words to that effect.

10. After seizure all the firearms and ammunition on board the "Dolphin" were taken on board the said "Richard Rush," a Lieutenant from the latter placed on board the "Dolphin," under whose command the "Dolphin" was taken to the Illoolook Harbour at Ounalaska Island, in the United States Territory of Alaska. After arrival there the 618 seal-skins on board the "Dolphin" were, by order of the United States authorities thereat, taken out and stored. About 2,600 lbs. of salt were also taken out, for resalting the seal-skins. On the 20th day of said July the "Dolphin" sailed from Illoolook Harbour on Ounalaska Island for Sitka, in the said Territory of Alaska, where she arrived on the 31st day of said month of July.

11. On arrival at Sitka the "Dolphin" was taken charge of by United States Marshal Atkins, of the said Territory of Alaska. As master of the "Dolphin" I, with the mate, the said John Reilly, were, on the 16th day of August then next following, taken before a Judge and bound over to appear for trial on the 22nd day of
157 August, A. D. 1887, on a charge then read over to us of having violated the law of the United States of America respecting seal-fishing in the waters of Alaska. We so appeared on the 22nd day of August for trial, and from day to day thereafter, for our trial on said charge. We so appeared thereafter for trial day after day until the 9th day of September following, when, without any trial on said charge or any other charge whatever, we were unconditionally released. From our arrival at Sitka on the 31st July until the 16th day of August following, when we

were taken before the Judge, no effort was made to restrain us or in any way deprive us of liberty. The crew of the "Dolphin" lived on board her all the time of their stay at Sitka, and when leaving to return to Victoria by the United States steamship "Richard Rush" took from the "Dolphin" sufficient provisions and supplies for the trip.

12. That hereto annexed, marked "(A)," is a statement of the value of the steam-schooner "Dolphin" at the time of her said seizure; also of the articles, and groups of articles, comprising her outfit on and for said voyage, all of which, excepting only what had been consumed in the prosecution of the voyage, were on board at seizure, as well as considerable extra supplies and stores not mentioned in Exhibit (A); also of the amount of premiums paid for insurance on the hull, cargo, and outfit of the "Dolphin" for and during said voyage; also of the amount of wages paid to the crew and hunters of the "Dolphin" on said voyage up to the time of her seizure, and of the expenses of the master and mate in returning to Victoria from Sitka; and also of the number and value of the seal-skins taken from the "Dolphin" when seized.

13. The value placed on the said steam-schooner "Dolphin" in Exhibit (A), namely, 12,000 dollars, is based upon her original cost, the condition which she was in when seized, and the value of vessels of her class and equipment at Victoria aforesaid. The first cost of the "Dolphin" was over 16,000 dollars. At the time of her seizure she was in first-class order and condition, having been specially repaired and refitted for the voyage she then was on. Her insurance value for 1887 was 12,500 dollars, and she was insured on and during said voyage for 2,000*l*. The said value, namely, 12,000 dollars, is a fair and reasonable value for the "Dolphin" when seized.

14. The prices charged for the articles, and groups of articles, in Exhibit (A), comprising the outfit of the "Dolphin," are the actual cost prices of the said articles, and groups of articles, at the time of their purchase at Victoria for the purposes of said voyage. The price per skin charged in Exhibit (A) for the seal-skins on board the "Dolphin" when seized, namely 5 dol. 50 c. per skin, was the market price at Victoria aforesaid at the close of the sealing season of 1887, and at which time the said seal-skins would have, had not such seizure taken place, been put upon the Victoria market.

15. That hereto annexed, marked "(C)," is a statement of the legal expenses incurred at Sitka and elsewhere, and also of personal expenses arising out of the seizure of the "Dolphin," the arrest of the master and mate, and the claims relating thereto.

16. That Exhibit (D), hereto annexed, is a statement of the estimated loss and damage to the owner of the "Dolphin" by reason of her seizure and detention during A. D. 1887. The loss for 1887 is based upon a catch of 4,500 seals at the current price per seal-skin at Victoria at the close of the season of 1887. The "Dolphin," on her voyage, carried thirteen canoes and two sealing-boats, and a crew of thirty-one sailors and hunters. The estimated catch of 4,500 seals by the "Dolphin" for said season is calculated on an average catch of 300 seals per boat and canoe for a full season; and I verily believe that said average catch per boat and per canoe for said season is a fair and reasonable estimate for a full season's work. During the time the "Dolphin" was in Behring's Sea, before capture, the weather was very unfavourable for seal-hunting, being both foggy and windy, and the catch for that period is no standard by which to judge of the ordinary and average catch of the season. There are frequently, all through the season, days at a time when no seals at all are taken, and, on the contrary, I have known a single boat to take from thirty to fifty seals per day in fine weather.

17. After the close of the sealing season, and during the succeeding months of October, November, December, and January, had the "Dolphin" been in her owner's possession, she would have been engaged in the coasting trade between the various ports and freighting places on the coasts of British Columbia. During said months the fair and reasonable earnings of the "Dolphin," after deducting from the gross amount thereof the cost of wages and running expenses, would be at least 500 dollars per month.

18. The estimated loss for the season of 1888 is based upon the said average catch of 4,500 seal-skins at the rate of 5½ dollars per skin, after deducting therefrom the cost of outfit, wages, and other necessary expenses of a hunting and fishing voyage based on the "Dolphin's" voyage of A. D. 1887. In order to fit up the "Dolphin" for such voyage in 1888, it is necessary that she be in her owner's possession on or before the 1st day of February of that year. If not at Victoria aforesaid about
158 that date, it will be impossible to put her in order and condition to leave on such a voyage at the usual time, namely, about the 1st March. During the summer months there is little or no coasting trade for a vessel of the class and equipment of the "Dolphin," and unless she can be sent out on a regular full season of hunting and fishing, her owner will practically lose the profits of the season. And I verily believe that 7,000 dollars is a fair and reasonable estimate of the earnings of *the "Dolphin" on* such a full season's hunting and fishing voyage.

19. That hereto annexed, marked "(E)," is a statement of the principal sums on which interest at 7 per cent. per annum is claimed, and the time for which it is so claimed. At the time when the catch of the "Dolphin" for the season of 1887 would, in the ordinary course of events, have been realized on, namely, on or about the 1st October of that year, the minimum rate of interest on money for commercial purposes at Victoria aforesaid was, has continued to be, and now is, 7 per cent. per annum.

20. That hereto annexed, marked "(F)," is a statement showing the various articles, and groups of articles, comprised in the outfit of the "Dolphin," and the value thereof, as given in Exhibit (A), which would have been wholly or almost wholly consumed on a full season's hunting and fishing voyage, such as that contemplated by the "Dolphin" in 1887.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton, in the Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

EXHIBIT (A).

Value of steam-schooner "Dolphin" at the time of her seizure		$12,000.00
Outfit:		
Groceries	$985.68	
Ammunition	240.22	
Dry goods	229.30	
Two iron water-tanks	25.00	
Water-casks	55.00	
Ship chandlery	262.03	
Twenty-three shot guns	920.00	
Four rifles	90.00	
One bomb-gun for signalling	60.00	
Gun implements and tools	10.50	
Thirteen canoes and outfit	741.00	
One second-hand boat	75.00	
One new boat (returned)		
9 tons salt	135.00	
41 tons of coal	287.00	
Cooking range and utensils	75.00	
		4,190.73
Insurance:		
Premium on 2,000*l.* insurance on hull	821.40	
Premium on 2,000*l.* insurance on outfit and cargo	514.59	
		1,335.99
Wages paid crew and hunters on voyage up to date of seizure		1,899.50
Fares and expenses of master and mate, and five of crew, from Sitka to Victoria, B. C		300.00
618 seal-skins on board "Dolphin" when seized, at 5 dol. 50 c. per skin		3,399.00
Total, Exhibit (A)		23,125.22

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

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159 EXHIBIT (C).

Legal expenses at Sitka in connection with the seizure and detention of the "Dolphin," and arrest of master and mate	$100.00
Counsel and other legal fees and expenses in and about the seizure of the "Dolphin," and the claim arising therefrom	750.00
Personal expenses of the owner in the same connection	250.00
Total	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D).—Estimated Loss and Damages to the owner of the "Dolphin" by reason of her Seizure and Detention during A. D. 1887.

Reasonable and probable catch of seal-skins for season 1887.....	4,500	
Less number on board when seized	618	
Balance, at 5 dol. 50 c. per skin	3,882	= $21,351.00
Reasonable earnings of the "Dolphin" during the months of October, November, and December A. D. 1887, and January A. D. 1888, had she been in owner's possession, viz., four months, at 500 dollars per month		2,000.00
Estimated loss for sealing season of 1888, if "Dolphin" not in possession of owner on or before the 1st February, 1888.....		7,000.00
Total		30,351.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).—Estimate of the Principal Sums on which Interest at 7 per cent. per annum is claimed, and the time for which it is so claimed.

Value of the estimated catch of the "Dolphin" for the season of 1887, from the 1st October, 1887, about which time the said catch would have been realized on, viz., 4,500 seal-skins, at 5 dol. 50 c.....	$24,750.00
Cash expenditure for legal and other expenses on account of said seizure prior to the 1st October, 1887.....	400.00
Total principal on which interest at 7 per cent. per annum is claimed from the 1st October, 1887, to date of payment of claim.....	25,150.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (F).—Value of the Articles of the "Dolphin's" Outfit which would have been wholly or almost wholly consumed on a full hunting and sealing voyage.

Groceries	$985.68
Ammunition	240.22
Dry goods	229.30
Ship chandlery	262.03
Salt	135.00
Coal	287.00
Wages	1,899.50
Insurance premiums	1,335.99
Total value consumed	5,374.72

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Memo.—If the full claim for the sealing season of 1887, as set out in Exhibit (D), be allowed, then the amount of this Exhibit, 5,374 dol. 72 c., will properly appear as a credit, and be deducted from the total of Exhibit (A), of which it forms a part.

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160 [Inclosure 11 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. I am the duly authorized agent, under power of attorney bearing date the 23rd day of November, A. D. 1887, in this behalf of the firm of Gutman and Frank, of the *city of Victoria* aforesaid, merchants, the said Gutman being owner of the herein-

after-mentioned schooner "Alfred Adams," and his partner, the said Frank, being equally interested with Gutman in the results of the sealing voyage hereinafter referred to.

2. The said schooner "Alfred Adams" is a British vessel of 69¼ tons, registered at Victoria aforesaid.

3. That on or about the last of May, or early in June, A. D. 1887, the said schooner "Alfred Adams" sailed from the port of Victoria aforesaid, on a full hunting and sealing voyage in the North Pacific Ocean and Behring's Sea. On or for said voyage the crew of the "Alfred Adams" consisted of William H. Dyer, master, a mate, and crew of twenty-four sailors and hunters, and fully equipped and provisioned.

4. That on the 10th day of July, A. D. 1887, the "Alfred Adams" entered Behring's Sea, and continued therein until the 6th day of August following, when, in north latitude 54° 48′, and west longitude 167° 49′, then being about 62 miles from Ounalaska Island, the nearest land, and lawfully, as I verily believe, pursuing the objects of the said voyage, the "Alfred Adams" was seized by the United States steam-ship "Richard Rush" for alleged violation of the laws of the United States respecting seal-fishing in the waters of Alaska.

5. That immediately after such seizure the Commander of the "Richard Rush" ordered the seal-skins then on board the "Alfred Adams," and all the firearms and ammunition, and Indian spears on board, to be taken out, and said seal-skins to the number of 1,386, and the firearms, ammunition, and spears, were taken from the said schooner "Alfred Adams," and conveyed to the said United States steam-ship "Richard Rush." The ship's papers of the "Alfred Adams" were also taken from her by the Commander of the "Richard Rush," and, as I verily believe, the master and mate of the "Alfred Adams" placed under arrest, though not actually imprisoned.

6. Hereto annexed, marked "(A)," is a statement of articles and value thereof, as claimed by the said Gutman and Frank, which were so taken by the "Alfred Adams."

7. That hereto annexed, marked "(B)," is an estimate of the loss claimed by the said Gutman and Frank, as resulting to them by reason of the seizure of the "Alfred Adams," herein set out, and of the legal and personal expenses incurred by reason of said seizure and the claims arising therefrom. The price per skin charged for the estimated catch of the "Alfred Adams" for a full season, namely, 5 dol. 50 c. per skin, was the current market price per skin at Victoria at the close of the sealing season of 1887. The catch of the "Alfred Adams" for said season is estimated from an average catch per canoe of 350 seals, the "Alfred Adams" having on said voyage ten canoes.

8. That hereto annexed, marked "(E)," is a statement of the principal sums on which interest at 7 per cent. per annum is claimed, the rate per cent., and the time from and to which it is so claimed. At the time when the catch of the "Alfred Adams" for the season of 1887 would have been, in the ordinary course of events, realized on, namely, on or about the 1st October, A. D, 1887, the minimum rate of interest on money for commercial purposes at Victoria aforesaid was 7 per cent. per annum.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

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161 EXHIBIT (A).—Statement of the Articles, and the Value thereof, taken from the Schooner "Alfred Adams" by the United States Steam-ship "Richard Rush," in Behring's Sea, the 6th August, 1887.

1,386 seal-skins, at 5 dol. 50 c. per skin	$7,623.00
Four kegs of powder, at 10 dollars	40.00
500 shells	60.00
Three cases caps and primers	60.00
Nine breech-loading shot guns	450.00
One Winchester rifle	25.00
Twelve Indian spears	48.00
Total value taken	8,306.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (B).—Loss to the Owner of the "Alfred Adams" by reason of her being forced to leave Behring's Sea, and return to Victoria, British Columbia.

Reasonable and probable catch of seals by the "Alfred Adams" for the season of 1887	3,500	
Less number on board when seized, and charged in Exhibit (A).	1,386	
Balance, at 5 dol. 50 c. per skin	2,114	= $11,627.00
Legal expenses in connection with the claims arising from said seizure	$300.00	
Personal expenses in the same connection	200.00	
		500.00
Total		12,127.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).—Principal Sum on which Interest at 7 per cent. per annum is claimed, and the Time for which it is so claimed.

Value of the probable catch of the "Alfred Adams" for season of 1887, from the 1st October, 1887, on or about which date said catch would have been realized on, viz., 3,500 seal-skins, at 5 dol. 50 c	$19,250.00
Total sum on which interest at 7 per cent. per annum is claimed, from the 1st October, 1887, until time of payment	19,250.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

[Inclosure 12 in No. 90.]

Declaration of James Douglas Warren.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent, under power of attorney bearing date the 25th day of November, A. D. 1887, of James J. Gray, of the said city of Victoria, ship-owner, and owner of the hereinafter-mentioned schooner "Ada."

2. That the said schooner "Ada" is a British vessel of 65 tons, registered at the port of Shanghae, and was, at the time of her seizure hereinafter set out, 5 years old.

3. That on or about the 16th day of June, A. D. 1887, the said schooner "Ada" cleared at the port of Victoria aforesaid, on and for a full hunting and fishing voyage in the North Pacific Ocean and Behring's Sea. For said voyage the crew
162 of the "Ada" consisted of James Gaudin, master, a mate, and twenty sailors and hunters, with two sealing-boats and seven canoes, and fully equipped and provisioned for such voyage.

4. The "Ada" entered Behring's Sea on or about the 16th day of July, A. D. 1887, and continued therein lawfully pursuing the objects of her voyage until the 25th day of August then next following, when, while so lawfully pursuing the objects of her voyage in said sea about 15 miles northward from Ounalaska Island, which said island was the nearest land, the said schooner was seized by the United States steamship "Bear," and taken to Illoolook Harbour at said Ounalaska Island, in the United States Territory of Alaska, and her voyage completely broken up.

5. At the time of said seizure the "Ada" had on board 1,876 seal-skins, which upon arrival at Illoolook Harbour aforesaid were taken from on board the "Ada" and stored on shore, after which, by order of the United States authorities, the "Ada" was taken to Sitka, in said Territory of Alaska, together with the master, mate, and crew.

6. That the said "Ada" arrived at Sitka on the 6th day of September, A. D. 1887, and on the 9th day of the said month her master and mate were, without being tried for any offence whatever, unconditionally released, but the "Ada" kept at Sitka, where she still remains.

7. That hereto annexed, marked "(A)," is a statement showing the value of the *"Ada" at the time* of her said seizure, and the value of her outfit on and for said

voyage, also of the number and value of the seal-skins taken from the "Ada" when seized, and also of the expenses of the master and mate of the "Ada". in returning from Victoria to Sitka.

8. The value placed on the "Ada" by her said owner at the time of seizure, namely, 7,000 dollars, is a fair and reasonable value for the "Ada" when seized. She is a substantially built craft in every respect, and is one of the best sailing-vessels engaged in the sealing trade. The value of the "Ada's" outfit given in said Exhibit, namely, 2,500 dollars, is less than that of any of the other seized vessels from the fact that the "Ada's" hunters were mostly Indians, whose canoes and outfits were returned after such seizure, and said outfit not including wages.

9. The price charged for the seal-skins taken from the "Ada" when seized is the current market price of seal-skins at Victoria at the close of the sealing season of 1887.

10. That the Exhibit (C), hereto annexed, shows the legal and personal expenses incurred by the owner of the "Ada" by reason of the seizure and detention of the said schooner "Ada," and the arrest and detention of the master and mate, and the claims arising therefrom.

11. That Exhibit (D), hereto annexed, is a statement of the estimated loss and damage to the owner of said schooner "Ada" by reason of her said seizure and detention during 1887, and the loss for 1888 if she is detained beyond the 1st February, 1888.

12. The claim of 1,000 seal-skins as the probable additional catch of the "Ada" for the balance of the sealing season, had she not been seized, is a fair and reasonable estimate, and with her actual catch, making a total for the season of 2,876, which, as she carried two boats, seven canoes, and twenty hunters, cannot be considered an excessive estimate.

13. During the months of October, November, December, and January following the close of the sealing season, or the greater part thereof, had the "Ada" been in her owner's possession, she would have been engaged in the general coasting and freighting trade on and about the coasts of British Columbia, and the fair and reasonable earnings of the "Ada" during said months, after deducting from the gross amount thereof the cost of wages and running expenses, would be at least 500 dollars per month.

14. In case the "Ada" be not delivered into her owner's possession at Victoria on or before the 1st day of February, A.D. 1888, it will be impossible to give her the necessary repairs and refitting in time to start out at the usual date, about the 1st March, on a full season's hunting and fishing. As during the summer months there is little coasting and freighting trade in which the "Ada" could be employed, her owner would, in the event of her not being ready in time for a regular hunting and fishing voyage, practically lose the greater part of the season, and the earnings of the "Ada" for such full season, after deducting therefrom the cost of outfit, wages, and other running expenses, would be at least, under circumstances, 6,000 dollars.

15. That hereto annexed, marked "(E)," is a statement of the principal sums on which interest at 7 per cent. is claimed, and the time from and to which it is so claimed. At the close of the sealing season of 1887, when the catch of the "Ada," in the ordinary course of events, would have been realized on, the minimum rate of interest on money for commercial purposes was, has continued to be, and now is, 7 per cent. per annum.

And I, James Douglas Warren aforesaid, make this solemn declaration, con-
163 scientiously believing the same to be true, and by virtue of the "Act respecting Extra-judicial Oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me at the City of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

EXHIBIT (A).

Value of the schooner "Ada" at the time of her seizure by the United States steam-ship "Bear," the 25th August, 1887	$7,000.00
Value of "Ada's" outfit at the same time	2,500.00
Value of seal-skins on board at seizure, viz., 1,876 skins, at 5 dol. 50 c. per skin	10,318.00
Passage and expenses of master of "Ada" from Sitka to Victoria	100.00
Total, Exhibit (A)	19,918.00

(Signed) J. D. WARREN.

(Signed) D. *O'CONNOR, Notary Public.*

EXHIBIT (C).

Legal expenses at Sitka in connection with said seizure	$100.00
Counsel and other legal fees and expenses, exclusive of the above, in reference to the seizure and claims arising therefrom	750.00
Personal expenses of the owner in the same connection	250.00
Total	1,100.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (D).

Estimated additional catch of seal-skins by schooner "Ada" had she not been seized, viz.: 1,000 skins, at 5 dol. 50 c	$5,500.00
Loss to owner of "Ada" by reason of her detention during the months of October, November, and December A. D. 1887, and January 1888, during which she would have been engaged in the coasting trade, namely, four months, at 500 dollars each	2,000.00
If owner not put in possession of "Ada" on or before the 1st February, 1888, so that she may be fitted out for hunting and fishing voyage of 1888, reasonable and probable profit on season of 1888	6,000.00
Total, Exhibit (D)	13,500.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

EXHIBIT (E).—Principal Sums on which Interest is claimed at 7 per cent. per annum, and the Time for which it is so claimed.

Value of the probable full catch of "Ada" for season of 1887, viz., 2,876 skins, at 5 dol. 50 c	$15,818.00
Cash outlay prior to the 1st October, 1887	200.00
Total principal on which interest at 7 per cent. per annum is claimed, from the 1st October, 1887, to date of payment	16,018.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

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164 No. 91.

Colonial Office to Foreign Office.—(Received February 3.)

DOWNING STREET, *February 3, 1888.*

SIR: With reference to previous correspondence respecting the British sealing-vessels seized in Behring's Sea, I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, reporting that orders have been issued by the United States Government for the return to their owners of the vessels "Onward," "Thornton," and "Carolina," seized in 1886.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 91.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, *Ottawa, January 19, 1888.*

SIR: In reference to my former despatches upon the subject of the seizure of Canadian sealing-vessels during the years 1886–87 by United States cruizers for fishing in Behring's Sea, I have the honour to report that my Minister of Marine and Fisheries has received from the Customs authorities at Victoria an intimation addressed by the United States Marshal at Sitka to Mr. Spring, the owner of the "Onward," one of the three vessels seized in 1886, to the effect that that vessel, as well as the "Thornton" and "Carolina," with their tackle, apparel, and furniture, as they now lie in the harbour of Ounalaska, are to be restored to their owners. A copy of this intimation is inclosed herewith.

2. The information received by my Minister is to the effect that the condition of these three vessels, owing to the length of time during which they have been lying on the shore, is now such as to render it questionable whether they could, under present circumstances, be repaired and removed with advantage. The difficulty of doing this would be increased, from the fact that the vessels have been released at a season of the year in which, owing to the great distance between Victoria and Ounalaska, it would be scarcely possible for the owners to fit out steamers for the purpose of going up to Ounalaska to repair their vessels and bring them home.

3. I also inclose herewith copy of an extract from an American newspaper (the name and date of publication are not given), from which it would appear that the District Judge has made an order for the sale of the arms and ammunition taken from the three schooners in question upon the supposed ground that, as the instructions sent by the United States Government to Sitka for the liberation of the vessels made no mention of the arms and ammunition on board of them, the Court concluded that these should be confiscated and sold. It would seem from the same extract that the remaining vessels held in Alaska are not included in the order sent by the United States Government for the release of the "Thornton," "Carolina," and "Onward," and are therefore likely to be confiscated and sold with their contents and equipment.

5. I have already dwelt at sufficient length upon the extent of the hardships involved to the crews and the owners of these vessels by the action of the United States Government, and I will only, upon the present occasion, remind you that another fishing season is approaching, and that, as far as my Government is aware, no declaration has been made by that of the United States in regard to the policy which it intends to adopt during the course of the year which has just commenced.

I have, &c.,

(Signed) LANSDOWNE.

[Inclosure 2 in No. 91.]

Mr. B. Atkins to Mr. C. Spring.

OFFICE OF UNITED STATES MARSHAL,
Sitka, District of Alaska, December 5, 1887.

SIR: I take pleasure in informing you and other owners of the schooners seized in the Behring's Sea by United States steamer "Corwin," that I am in receipt
165 of orders from Washington to restore to their owners the schooners "Onward," "Thornton," and "Carolina," their tackle, apparel, and furniture, as they now lie in the harbour of Ounalaska.

Orders for their release have been forwarded to their custodian at Ounalaska.

Very respectfully,

(Signed) BARTON ATKINS,
United States Marshal, District of Alaska.

[Inclosure 3 in No. 91.]

Extract from American Newspaper (name and date unknown).

ALASKA NEWS.—Judge Dawson has made an order for the sale, at Juneau, of the arms and ammunition taken from the British schooners "Thornton," "Carolina," and "Onward," captured last year by the "Corwin." Attorney-General Garland sent instructions to Sitka to have the three vessels liberated, but, as he made no mention of the arms and ammunition, the Court concluded that they must be sold, and gave directions accordingly.

The Marshal has further been authorized to sell the schooner "W. P. Sayward" (British), and the "Alpha," "Kate," and "Anna," and "Sylvia Handy" (American), together with their boats, tackle, and furniture. By stipulation entered into last September between Mr. Delaney, acting for the United States, and Mr. Drake, Q.C., representing the Canadian Government, the remaining British schooners cannot be sold until the expiration of three months from the 11th January next, and then only by the District Attorney giving the owners ninety days' notice.

Application granted:

In the cases of the schooners "Lily L.," "W. P. Sayward," "Annie," "Allie J. Alger," "Alpha," "Kate and Anna," and "Sylvia Handy," an application made by Attorney W. Clark, counsel for the owners, for leave to appeal to the Supreme Court of the United States, was granted.

A motion presented by the same attorney for a stay of proceedings for three months in the cases of the "W. P. Sayward," "Alpha," "Kate and Anna," and "Sylvia Handy," was refused by the Court, on the ground that the owners had ample time in which to prepare for their appeals, and it was entirely their own fault if they had not done so.

No. 92.

Colonial Office to Foreign Office.—(Received February 13.)

[Extract.]

DOWNING STREET, *February 13, 1888.*

With reference to previous correspondence respecting the claims of British subjects against the Government of the United States arising out of the seizure of or interference with certain sealing vessels in the Behring's Sea, I am directed by Secretary Sir Henry Holland to transmit to you, to be laid before Lord Salisbury, copies of two further despatches from the Governor-General relating to further claims in the cases of the vessels "Thornton," "Carolina," and "Onward," and of the vessels "Dolphin," "W. P. Sayward," "Anna Beck," "Grace," and "Ada."

[Inclosure 1 in No. 92.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, *Ottawa, January 20, 1888.*

SIR: With reference to my despatches of the 2nd and 23rd December last, transmitting revised statements of the claims of the owners of the "Thornton," "Carolina," and "Onward," seized in Behring's Sea during the season of 1886 by the United States Revenue cutter "Corwin," I have the honour to forward herewith, for presentation to the United States Government, a copy of an approved Report of a Committee of the Privy Council, submitting a revised statement of the claims of the masters and mates of the above-mentioned vessels.

My Minister of Marine and Fisheries considers that these revised claims are
166 just and reasonable, and expresses the hope that prompt reparation may be made to those persons for the sufferings and losses they have sustained.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 2 in No. 92.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council, January 12, 1888.

On a Report dated 5th January, 1888, from the Minister of Marine and Fisheries, stating, with reference to the Minute of Council of the 3rd January, 1887, transmitting claims of the owners, masters, and mates of the sealing-schooners "Thornton," "Carolina," and "Onward," which were seized in the Behring's Sea in August, 1886,

by the United States revenue-cutter "Corwin," and the despatch from the Secretary of State for the Colonies, dated 14th September, 1887, returning these for revision, as well as to the Minutes of Council of the 29th November and 20th December, 1887, transmitting the revised claims of the schooners "Thornton" and "Carolina" and of the "Onward" respectively, so far as the owners are concerned, that, the personal claims for illegal arrest and imprisonment of the masters and mates of the above-mentioned vessels having been referred back to the parties interested, they have consented to accept a reduction of one-half the original claim as submitted.

They would therefore be as follows:

Schooner "Thornton"—	
Hans Guttermsen, master	$4,000.00
Henry Norman, mate	2,500.00
Schooner "Carolina"—	
James Ogilvie, master	2,500.00
James Black, mate	2,500.00
Schooner "Onward"—	
Daniel Munroe, master	4,000.00
John Margotich, mate	2,500.00

The Minister, believing these revised claims to be just and reasonable, recommends that they be forwarded for presentation to the United States Government, and expresses the hope that prompt reparation may be made to those persons for the sufferings and losses they have sustained.

The Committee advise that your Excellency be moved to forward the claims herein mentioned to the Right Honourable the Secretary of State for the Colonies, for transmission to the United States Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 92.]

The Marquis of Lansdowne to Sir H. Holland.

GOVERNMENT HOUSE, *Ottawa, January 18, 1888.*

SIR: With reference to my despatch of the 5th instant, transmitting detailed statements of the claims of the owners and agents of the Canadian sealing-vessels seized in Behring's Sea during the past season, I have the honour to forward herewith a copy of an approved Report of the Committee of the Privy Council, submitting the personal claims of the masters and mates of the "Dolphin," "W. P. Sayward," "Anna Beck," "Grace," and "Ada."

My Minister of Marine and Fisheries is of opinion that the claims submitted are just and reasonable, and recommends that they be presented to the United States Government with the hope that prompt reparation may be made to these persons for the sufferings and losses they have sustained.

I have, &c. (Signed) LANSDOWNE.

[Inclosure 4 in No. 92.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, January 12, 1888.

On a Report, dated the 29th December, 1887, from the Minister of Marine and Fisheries, submitting, in connection with the seizures of Canadian sealing-vessels in Behring's Sea during the seasons of 1886 and 1887, the personal claims of the following masters and mates of the seized vessels:

Schooner "Dolphin"—	
Warren, captain	$2,635.00
John Reilly, mate	1,000.00
Schooner "W. P. Sayward"—	
Geo. R. Ferey, captain	2,000.00
A. D. Laing, mate	1,000.00
Schooner "Anna Beck"—	
Louis Olsen, captain	2,000.00
Michael Keefe, mate	1,000.00
Schooner "Grace"—	
Wm. Petit, captain	2,000.00
Schooner "Ada"—	
Charles A. Lundberg, mate	2,000.00

The Minister believes that these claims are just and reasonable, and recommends that they be forwarded to Her Majesty's Government for presentation to the Government of the United States, and he expresses the hope that prompt reparation may be made to these persons for the sufferings and losses they have sustained.

The Committee advise that your Excellency be moved to forward the claims herein mentioned to the Right Honourable the Secretary of State for the Colonies, for transmission to the United States Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

Declaration.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I was master of the British steam-schooner "Dolphin," of Victoria aforesaid, on the 12th day of July, A. D. 1887, the said schooner on that day being in that part of the North Pacific Ocean called Behring's Sea, lawfully engaged in seal-fishing.

2. That on the said 12th day of July, A. D. 1887, the said steam-schooner "Dolphin" was seized by the United States steamship "Richard Rush," and I was made a prisoner and taken on board of the said steam-ship "Richard Rush" with the ship's papers of the said "Dolphin."

3. That shortly afterwards on the same day I was sent back on board the "Dolphin," which, in command of an officer from the said "Richard Rush," was taken to Ounalaska Island, in the United States territory of Alaska, from which place a few days after I was sent—with the said steam-schooner "Dolphin," in command of an officer from the said "Richard Rush"—to Sitka, in the said territory of Alaska. On arrival at Sitka I was handed over to the United States Marshal of the territory of Alaska, in whose custody I remained from the 1st day of August, A. D. 1887, until the 16th day of August instant, when I was taken before the United States District Court at Sitka, formally charged with having violated the laws of the United States relating to seal fishing in the waters of Alaska, and upon my own recognizance of 500 dollars released to appear for trial on said charge on the 22nd day of August then instant, and to appear from day to day thereafter until I should be so tried. I did so appear on the days so ordered until the 9th day of September following, when, without so being tried on said charge, or any other charge or offence whatever, I was unconditionally released by order of the Judge of said Court, and for the said illegal arrest and imprisonment I claimed as damages the sum of 2,000 dollars.

4. That at the same time I was arrested, as aforesaid, one John Reilly was mate of the said steam-schooner "Dolphin," and I am the duly authorized agent in this behalf of the said John Reilly, mate of the said "Dolphin."

5. The said John Reilly was arrested, taken to Ounalaska, thence to Sitka,
168 delivered into the custody of the United States Marshal of Alaska, arraigned, allowed bail, and finally released at the same place, time, and manner in which I was, as set out in the declaration, and the said John Reilly, by me, his duly authorized agent in this behalf, claims 1,000 dollars as damages for said illegal arrest and detention.

6. That after arrival of said steam-schooner "Dolphin" at Ounalaska aforesaid, after her seizure, I agreed with the Commander of the said "Richard Rush" to navigate the said "Dolphin" from Ounalaska to Sitka, for which purpose I engaged the crew on board the "Dolphin" after seizure, agreeing to pay them their ordinary wages therefor. I did so navigate the said "Dolphin" from Ounalaska to Sitka with the said crew, but I have never been paid therefor, nor have the said crew been paid the wages promised and agreed to be paid them therefor. The said trip from Ounalaska to Sitka took about fifteen days, and the amount due me for said services for myself and crew amount to 160 dollars, which said sum I hereby claim as justly due me for such services.

7. That at the time I agreed with the said Commander of the "Richard Rush" to navigate the said "Dolphin" from Ounalaska to Sitka I also agreed to furnish officers and crews to navigate the screw-schooners "Grace" and "Anna Beck" from Ounalaska to Sitka. I did so provide for their navigation from and to said places, and agreed to pay their said officers and crew ordinary wages for their services in so doing. The "Grace" and "Anna Beck" were so taken from Ounalaska to Sitka; the voyage took about fifteen days, and the amount due to master and mates and crew therefore 160 dollars for each of the said vessels "Grace" and "Anna Beck,"

and I claim therefore 320 dollars for said services. I also claim 155 dollars for similar services in navigating the schooner "W. P. Sayward," by her master and crew, from Ounalaska to Sitka. The said schooner "W. P. Sayward" and steam-schooners "Grace," "Dolphin," and "Anna Beck" are still at Sitka, and are about one-half the distance from Victoria they were when at Ounalaska, and can be got at any time of the year, while, had they remained at Ounalaska, they could only have been reached during the summer months, and then at a cost two or three times as great as now.

8. That I am the duly authorized agent of the owner of and manager of the said schooner "W. P. Sayward" and of the said steam-schooners "Grace," "Dolphin," and "Anna Beck."

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Act respecting extra-judicial oaths.

(Signed) J. D. WARREN.

Declared and affirmed before me at the city of Ottawa, in the County of Carleton and Province of Ontario, this 9th day of December A. D. 1887, and certified under my official seal.

(Signed) D. O'CONNOR,
Notary Public for Ontario.

EXHIBIT (A).

James D. Warren's claim for illegal arrest	$2,000.00
John Reilly's claim for illegal arrest	1,000.00
James D. Warren's claim for navigating steam-schooner "Dolphin" from Onnalaska to Sitka	160.00
James D. Warren's claim for navigating steam-schooners "Grace" and "Anna Beck"	320.00
James D. Warren's claim for navigating steam-schooner "W. P. Sayward"	155.00
Total	3,635.00

(Signed) J. D. WARREN.

(Signed) D. O'CONNOR, *Notary Public.*

Damages claimed by George R. Ferey, Master of the schooner "W. P. Sayward," for illegal arrest and detention on board the United States steam-ship "Rush," and at Sitka, from July 9 to September 10, 1887.

BRITISH COLUMBIA, *to wit.*

I, George R. Ferey, of Victoria, in the Province of British Columbia, Dominion of Canada, master mariner, and master of the schooner "W. P. Sayward," solemnly and sincerely declare as follows:

169 1. That I was on the 9th July, 1887, master of the schooner "W. P. Sayward"; at that date the said schooner was in the Behring's Sea.

2. That on the said 9th July the said schooner "W. P. Sayward" was seized by the United States steam-ship "Rush," and I was made a prisoner and taken on board the said steam-ship "Rush" with the papers of the said schooner "W. P. Sayward."

3. The Captain of the said steam-ship "Rush" told me I was in his charge, and must obey his orders; he sent me back to the said schooner "W. P. Sayward," made her fast to the "Rush," and towed her to Ounalaska, from which place we were distant at time of said seizure about 80 miles.

4. When I arrived at Ounalaska aforesaid I was given into the charge of a Deputy United States Marshal, and next day I, in the said schooner "W. P. Sayward," in charge of a Deputy Marshal, was sent on my way to Sitka, where I arrived on the 22nd July, and was there delivered into the custody of the United States Marshal.

5. That on the 23rd July I was brought before Judge Dawson, the Judge of the District Court at Sitka, and placed under bond of 500 dollars to appear before the said District Court on the 22nd August, 1887. I had to remain at Sitka from the said 23rd July, and on the 22nd August, 1887, I appeared before the said District Court, and so on from day to day until the 10th September, when Judge Dawson aforesaid discharged me, stating he had received instructions from Washington to release all parties connected with the seized sealers.

6. I claim as damages for my said illegal arrest and detention the sum of 2,000 dollars.

7. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Oaths Ordinance, 1869."

(Signed) GEORGE R. FERRY.

Declared before me at Victoria, this 2nd November, 1887, in pursuance of the Oaths Ordinance, 1869.

(Signed) CHAS. E. POOLEY,
Notary Public, Victoria, British Columbia.

Declaration.

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, master mariner and ship-owner, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent in this behalf of Andrew D. Laing, of the city of Victoria aforesaid, mate and partner of the British schooner "W. P. Sayward," at the time of her seizure as stated herein.

2. That on the 9th July, A. D. 1887, the said schooner "W. P. Sayward," while in Behring's Sea, in north latitude 54° 43′, and west longitude 167° 51′, and lawfully engaged in sealing, she was seized by the United States steam-ship "Richard Rush," and the said Andrew D. Laing, mate of the said schooner "W. P. Sayward," was then placed under arrest by an officer of and from the said "Richard Rush."

3. That, by authority of the Commander of the said "Richard Rush," the said mate was taken first to Ounalaska Island, in the United States Territory of Alaska, and thence to Sitka, in said Territory of Alaska, and there arraigned for trial on the 22nd August, 1887, being admitted to bail in the meantime. The said Andrew D. Laing pleaded "not guilty" to the charge preferred against him, namely, that of violating the laws of the United States respecting seal fishing in the waters of Alaska, and appeared on the said 22nd August for trial, and from day to day thereafter until the 9th September following, when without having been tried on said charge, or for any offence whatever, he was unconditionally released.

4. And the said Andrew D. Laing, by me, his duly authorized agent in this behalf, claims 1,000 dollars as damages for such illegal arrest.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting extra-judicial oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me, at the city of Ottawa, in the county of Carleton and Province of Ontario, this 9th December, 1887, and certified under my official seal.

(Signed) J. M. BALDERSON,
Notary Public for Ontario.

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170 *Declaration.*

CITY OF OTTAWA, *Province of Ontario, Dominion of Canada.*

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, of the Dominion of Canada, do solemnly and sincerely declare as follows:

1. That I am the duly authorized agent of Louis Olsen, of the said city of Victoria, in this behalf, master mariner, and master of the steam-schooner "Anna Beck" at the time hereinafter mentioned.

2. That on the 2nd July, A. D. 1887, the said "Anna Beck," while in Behring's Sea in north latitude 54° 58′ and west longitude 167° 26′, and lawfully engaged in seal fishing, was seized by the United States steam-ship "Richard Rush," and the said Louis Olsen, as master thereof, made prisoner by an officer of and from said steam-ship "Richard Rush."

3. An armed crew from the said "Richard Rush" took charge of the said "Anna Beck," and took her and her crew to Ounalaska, in the Territory of Alaska. The said Louis Olsen was kept in custody at Ounalaska until the 5th day of said July, when he was sent as a prisoner to Sitka, in the said Territory of Alaska, on board the American schooner "Challenge," in charge of an officer from the said "Richard Rush."

4. After his arrival at Sitka the said master of the "Anna Beck" was arraigned before a Judge of the District Court on a charge of having violated the laws of the United States respecting seal fishing in the waters of Alaska.

He pleaded "not guilty" to said charge, and was ordered to appear for trial on the 22nd day of August then instant, and thereafter from day to day until so tried, in the meantime being allowed out on bail on his own recognizance for 500 dollars. He so appeared for trial on the said 22nd day of August, and day by day thereafter, until the 9th day of September following, when, without being so tried on said charge or any other charge whatever, he was unconditionally released, and the said Louis Olsen by me, his agent in his behalf, claims 2,000 dollars as damages for such illegal arrest and detention.

And I, James Douglas Warren aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting extra-judicial oaths."

(Signed) J. D. WARREN.

Declared and affirmed before me, at the city of Ottawa, in the county of Carleton, this 9th day of December, A. D. 1887, and certified under my official seal.

(Signed) J. M. BALDERSON,
Notary Public for Ontario.

LANGLEY STREET, VICTORIA, B. C., *November 30, 1887.*

SIR: We have the honour to forward herewith the claim of Mr. Michael Keefe against the American Government for damages for illegal arrest and detention by the American steam-ship "Rush" while he was acting as mate of the steam-vessel "Anna Beck."

We have, &c. (Signed) DAVIE AND POOLEY, *Barristers, &c.*

The Hon. the MINISTER OF MARINE AND FISHERIES,
Ottawa.

Damages claimed by Michael Keefe, Mate of the Steam-vessel "Anna Beck," for illegal arrest and detention by the United States Steam-ship "Rush," and at Sitka, from July 20 to September 10, 1887.

BRITISH COLUMBIA, *to wit.*

I, Michael Keefe, of Victoria, in the province of British Columbia, master mariner, and chief mate of the steam-vessel "Anna Beck," solemnly and sincerely declare as follows:

1. That I was on the 2nd day of July 1887 chief mate of the steam-vessel "Anna Beck;" at that date the said steam-vessel was in the Behring's Sea engaged in seal-fishing.

2. That on the said 2nd day of July the said steam-vessel "Anna Beck" was seized by the United States steam-ship "Rush," and I was made a prisoner and taken on board the said steam-ship "Anna Beck," in charge of an armed crew from the said steam-ship "Rush," to Ounalaska, where we arrived on the 3rd day of July 1887.

3. At the time of the said seizure the said steam-vessel "Anna Beck" was 73 miles from the nearest land.

4. When we arrived at Ounalaska we were kept in custody by the said steam-ship "Rush" until the 5th day of July, when I and the rest of the crew of the said steam-vessel "Anna Beck" were transferred to the American schooner "Challenge,"
171 and were sent to Sitka, Alaska, in charge of a quartermaster from the said steam-ship "Rush," where we arrived on the 20th day of July 1887.

5. On the 22nd day of July I was taken before Judge Dawson, of the United States District Court, by the United States Marshal, and was charged with taking seals illegally in Alaskan waters. I pleaded "not guilty" to the charge, and I was released on my own bond of 500 dollars to appear when called upon after the arrival of the "Rush," which was expected to arrive in August.

6. On the 27th day of July I appeared before the said Judge Dawson and told him I had no means of supporting myself, and he then handed me over to the custody of the United States Marshal, in whose custody I remained until the 10th day of September, 1887, when the said Judge Dawson sent for me to court, when he released me, stating he had received a telegram from Washington instructing him to release all parties connected with the seized vessels.

7. I claim as damages for my said illegal arrest and detention the sum of 1,000 dollars.

8. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Oaths Ordinance, 1869."

(Signed) MICHAEL KEEFE.

Declared before me at Victoria, British Columbia, this 16th day of November, 1887, in pursuance of the "Oaths Ordinance, 1869."

(Signed) CHAS. E. POOLEY, *Notary Public.*

Damages claimed by William Petit, Master of the Steam-vessel "Grace," for illegal arrest and detention on board the United States Steam-ship "Rush," and at Sitka, from July 17 to September 10, 1887.

BRITISH COLUMBIA, *to wit.*

I, William Petit, of Victoria, in the Province of British Columbia, master mariner, and master of the steam-vessel "Grace," solemnly and sincerely declare as follows:

1. That I was the master of the steam-vessel "Grace" on the 17th day of July, 1887; the said vessel was at that date in the Behring's Sea, engaged in seal-fishing.

2. That on the said 17th day of July the said steam-vessel "Grace" was seized by the United States steam-ship "Rush," and I was made a prisoner and taken on board the said steam-ship "Rush" with the papers of the said steam-vessel "Grace."

3. That I was again sent back to my said steam-vessel "Grace," and an officer and two men from the said steam-ship "Rush" were placed in charge of her; and the said steam-vessel "Grace" was taken in tow by the said steam-ship "Rush," and brought into Ounalaska, which place at the time of seizure was 93 miles distant.

4. From Ounalaska aforesaid I was taken down to Sitka in my said steam-vessel "Grace," in charge of a Deputy United States Marshal; and when I arrived at Sitka, on the 1st day of August, 1887, I was handed over to the custody of the United States Marshal.

5. That I remained in the custody of the said United States Marshal at Sitka until the 17th day of August, when I was arraigned before the District Court, and was remanded on my own bail of 500 dollars until the 21st day of August; and I appeared before the said Court on the said 21st day of August, and thence on from day to day until the 10th day of September, 1887, when Judge Dawson, the Judge of the said District Court, discharged me, stating he had instructions from Washington to release all parties connected with the seized sealers.

6. And for the said illegal arrest and detention I claim as damages the sum of 2,000 dollars.

7. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Oaths Ordinance, 1869."

(Signed) WILLIAM PETIT.

Declared before me, at Victoria, this 2nd day of November, 1887, in pursuance of "The Oaths Ordinance, 1869."

(Signed) CHAS. E. POOLEY,
Notary Public, Victoria, British Columbia.

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172 *Damages claimed by Charles August Lundberg, Chief Mate of the British Schooner "Ada," for illegal arrest and detention by the United States Revenue Cutter "Bear," and by the United States Marshal at Sitka, from August 25 to October 4, 1887.*

BRITISH COLUMBIA, *to wit.*

I, Charles August Lundberg, of Victoria, British Columbia, do solemnly and sincerely declare:

1. That I sailed from the city of Victoria, as chief mate of the British schooner "Ada," on the 17th day of June, 1887, on a sealing voyage to the Behring's Sea.

2. That on the 25th day of August, 1887, in the Behring's Sea, and while engaged in the lawful business of the said voyage, the schooner "Ada" was seized and taken possession of by the United States revenue-cutter "Bear." The officers of the said cutter placed a crew on board of the said schooner, and towed her to Ounalaska.

3. At Ounalaska our cargo of seal-skins was taken out of the said schooner against the protest of the captain, and before our having a hearing before any legal Tribunal. I was then forced to go on the seized schooner, in charge of a United States Deputy-Marshal, to Sitka, for trial, arriving at Sitka on the 5th day of September, 1887.

4. Upon arrival at Sitka the schooner was handed over to the United States Marshal, and I was kept on board the vessel until the 9th day of the same month, when I was released.

5. I was without means or provisions, and nothing was done towards enabling me to return to my home until the 25th September, 1887, when I was sent on board the United States revenue-cutter "Rush," and taken to Victoria, where I arrived on the 4th day of October, 1887.

6. For my damages, by reason of my illegal arrest and detention as aforesaid, I claim the sum of 2,000 dollars.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Oaths Ordinance, 1869."

(Signed) C. A. LUNDBERG.

Declared at Victoria, British Columbia, this 9th day of November, A. D. 1887, *before me,*

(Signed) THORNTON FELL,
Notary Public, *Victoria, British Columbia.*

No. 93.

Mr. Phelps to the Marquis of Salisbury.—(*Received February 18.*)

LEGATION OF THE UNITED STATES,
London, February 17, 1888.

MY LORD: I have the honour to inclose a printed copy of an important note relative to the Alaska seal fisheries which I have just received from my Government. It has reference to the proposal for some International Regulations at those fisheries which I had the honour to submit in general terms to your Lordship in a personal interview on the 17th November last, and which I then promised to ask my Government to state more precisely.

As the matter is one that, as it appears to the United States Government, should be dealt with immediately, and in which I presume both Governments will readily concur, I shall be glad of the honour of an interview with your Lordship at as early a day next week as may be convenient and agreeable to you, when the proposed restrictions and the method of carrying them into effect can be considered.

I have, &c.

(Signed) E. J. PHELPS.

[Inclosure 1 in No. 93.]

Mr. Bayard to Mr. Phelps.

DEPARTMENT OF STATE, *Washington, February 7, 1888.*

SIR: I have received your despatch of the 12th November last, containing an account of your interview with Lord Salisbury of the preceding day, in which his Lordship expressed acquiescence in my proposal of an agreement between the
173 United States and Great Britain in regard to the adoption of concurrent regulations for the preservation of fur seals in Behring's Sea from extermination by destruction at improper seasons and by improper methods by the citizens of either country.

In response to his Lordship's suggestion that this Government submit a sketch of a system of regulations for the purpose indicated, it may be expedient, before making a definite proposition, to describe some of the conditions of seal life. And for this purpose it is believed that a concise statement as to that part of the life of the seal which is spent in Behring Sea will be sufficient.

All those who have made a study of the seals in Behring's Sea are agreed that, on an average, from five to six months—that is to say, from the middle or towards the end of spring till the middle or end of October—are spent by them in those waters in breeding and in rearing their young. During this time they have their rookeries on the Islands of St. Paul and St. George, which constitute the Pribyloff group and belong to the United States, and on the Commander Islands, which belong to Russia. But the number of animals resorting to the latter group is small in comparison with that resorting to the former. The rest of the year they are supposed to spend in the open sea south of the Aleutian Islands.

Their migration northward, which has been stated as taking place during the spring and till the middle of June, is made through the numerous passes in the long chain of the Aleutian Islands; above which the courses of their travel converge chiefly to the Pribyloff group. During this migration the female seals are so advanced in pregnancy that they generally give birth to their young, which are commonly called pups, within two weeks after reaching the rookeries. Between the time of the birth of the pups and of the emigration of the seals from the islands in the autumn the females are occupied in suckling their young; and by far the largest part of the seals found at a distance from the islands in Behring's Sea during the summer and early autumn are females in search of food, which is made doubly necessary to enable them to suckle their young as well as to support a condition of renewed pregnancy, which begins in a week or a little more after their delivery.

The male seals, or bulls, as they are commonly called, require little food while on the islands, where they remain guarding their harems, watching the rookeries, and sustaining existence on the large amount of blubber which they have secreted beneath their skins and which *is gradually absorbed during* the five or six succeeding months.

Moreover it is impossible to distinguish the male from the female seals in the water, or pregnant females from those that are not so. When the animals are killed in the water with firearms many sink at once and are never recovered, and some authorities state that not more than one out of three of those so slaughtered is ever secured. This may, however, be an over-estimate of the number lost.

It is thus apparent that to permit the destruction of the seals by the use of firearms, nets, or other mischievous means in Behring's Sea would result in the speedy extermination of the race. There appears to be no difference of opinion on this subject among experts. And the fact is so clearly and forcibly stated in the Report of the Inspector of Fisheries for British Columbia of the 31st of December, 1886, that I will quote therefrom the following pertinent passage:

"There were killed this year, so far, from 40,000 to 50,000 fur seals which have been taken by schooners from San Francisco and Victoria. The greater number were killed in Behring's Sea, and were nearly all cows or female seals. This enormous catch, with the increase which will take place when the vessels fitting up every year are ready, will, I am afraid, soon deplete our fur seal fishery, and it is a great pity that such a valuable industry could not in some way be protected."

[Report of Thomos Mowat, Inspector of Fisheries for British Columbia; Sessional Papers, Vol. 15, No. 16, p. 268; Ottawa, 1887.]

The only way of obviating the lamentable result above predicted appears to be by the United States, Great Britain, and other interested Powers taking concerted action to prevent their citizens or subjects from killing fur seals with firearms, or other destructive weapons, north of 50° of north latitude, and between 160° of longitude west and 170° of longitude east from Greenwich, during the period intervening between 15th April and 1st November. To prevent the killing within a marine belt of forty or fifty miles from the Islands during that period would be ineffectual as a preservative measure. This would clearly be so during the approach of the seals to the Islands. And after their arrival there such a limit of protection would also be insufficient; since the rapid progress of the seals through the water enables them to go great distances from the islands in so short a time that it has been calculated that an ordinary seal could go to the Aleutian Islands and back, in all a distance of 360 or 400 miles, in less than a day.

On the Pribyloff Islands themselves, where the killing is at present under
174 the direction of the Alaska Commercial Company, which by the terms of its contract is not permitted to take over 100,000 skins a year, no females, pups, or old bulls are ever killed, and thus the breeding of the animals is not interfered with. The old bulls are the first to reach the islands, where they await the coming of the females. As the young bulls arrive they are driven away by the old bulls to the sandy part of the islands, by themselves. And these are the animals that are driven inland and there killed by clubbing, so that the skins are not perforated and discrimination is exercised in each case.

That the extermination of the fur seals must soon take place unless they are protected from destruction in Behring's Sea is shown by the fate of the animal in other parts of the world, in the absence of concerted action among the nations interested for its preservation. Formerly many thousands of seals were obtained annually from the South Pacific Islands, and from the coasts of Chili and South Africa. They were also common in the Falkland Islands and the adjacent seas. But in those islands, where hundreds of thousands of skins were formerly obtained, there have been taken, according to best statistics, since 1880, less than 1,500 skins. In some places the indiscriminate slaughter, especially by use of fire-arms, has in a few years resulted in completely breaking up extensive rookeries.

At the present time it is estimated that out of an aggregate yearly yield of 185,000 seals from all parts of the globe over 130,000, or more than two-thirds, are obtained from the rookeries on the American and Russian islands in Behring's Sea. Of the remainder, the larger part are taken in Behring's Sea, although such taking, at least on such a scale, in that quarter is a comparatively recent thing. But if the killing of the fur seal there with fire-arms, nets, and other destructive implements were permitted, hunters would abandon other exhausted places of pursuit for the more productive field of Behring's Sea, where extermination of this valuable animal would also rapidly ensue.

It is manifestly for the interests of all nations that so deplorable a thing should not be allowed to occur. As has already been stated, on the Pribyloff Islands this Government strictly limits the number of seals that may be killed under its own lease to an American Company; and citizens of the United States have, during the past year, been arrested, and ten American vessels seized for killing fur seals in Behring's Sea.

England, however, has an especially great interest in this matter, in addition to that which she must feel in preventing the extermination of an animal which contributes so much to the gain and comfort of her people. Nearly all undressed fur

seal skins are sent to London, where they are dressed and dyed for the market, and where many of them are sold. It is stated that at least 10,000 people in that city find profitable employment in this work; far more than the total number of people engaged in hunting the fur seal in every part of the world. At the Pribyloff Islands it is believed that there are not more than 400 persons so engaged; at Commander Islands, not more than 300; in the north-west coast fishery, not more than 525 Indian hunters and 100 whites; and in the Cape Horn fishery not more than 400 persons, of whom perhaps 300 are Chileans. Great Britain, therefore, in co-operating with the United States to prevent the destruction of fur seals in Behring's Sea, would also be perpetuating an extensive and valuable industry in which her own citizens have the most lucrative share.

I inclose for your information copy of a Memorandum on the fur seal fisheries of the world prepared by Mr. A. Howard Clark, in response to a request made by this Department to the United States Fish Commissioner. I inclose also, for your further information, copy of a letter to me dated the 3rd December last, from Mr. Henry W. Elliott, who has spent much time in Alaska, engaged in the study of seal life, upon which he is well known as an authority. I desire to call your special attention to what is said by Mr. Elliott in respect to the new method of catching the seals with nets.

As the subject of this despatch is one of great importance and of immediate urgency, I will ask that you give it as early attention as possible.

I am, &c.

(Signed) T. F. BAYARD.

[Inclosure 2 in No. 93.]

Review of the Fur Seal Fisheries of the World in 1887, by A. Howard Clark.

In the "Encyclopædia Britannica," ninth edition, the fur seal fisheries are credited with an annual yield of 185,000 skins, of which 100,000 are said to be obtained from the Pribyloff Islands, 30,000 from the Commander Islands, 15,000 from the Straits of Juan de Fuca and vicinity, 12,000 from the Lobos Islands, 15,000 from Patagonia and outlying islands, 500 from the Falkland Islands, 10,000 from the Cape of Good Hope and places thereabout, and 2,500 from islands belonging to Japan.

The above statistics were communicated by me to the author of the article
175 "Seal Fisheries" in the "Encyclopædia," and had been carefully verified by the latest official records and by a personal interview with Messrs. C. M. Lampson and Co., of London, one of the principal fur houses of the world, and by whom most of the annual production of fur seal-skins are placed upon the market.

A review of the subject at this time (January 1888) necessitates but a slight change in the annual production and in the apportionment to the several fisheries. Some of the fisheries have increased, while others have decreased. Taking the average annual yield from 1880 to date, I find that the total production is now 192,457 skins, obtained as follows:

ANNUAL YIELD OF FUR SEAL FISHERIES.

	Number of Fur Seal Skins.
Pribyloff Islands, Behring's Sea	94,967
Commander Islands and Robben Reef	41,893
Islands belonging to Japan	4,000
British and American sealing fleets on north-west coast of America (including catch at Cape Flattery and Behring's Sea)	25,000
Lobos Islands at mouth of Rio de la Plata	12,385
Cape of Good Hope (including islands in Southern Indian Ocean)	5,500
Cape Horn region	8,162
Falkland Islands	550
Total	192,457

The Statistics for the Pribyloff and Commander Islands are compiled from Reports of the Alaska Commercial Company, Mr. Elliott's Reports in Vol. viii, 10th Census, and in Section 5, United States Fish Commission Report, and Trade Reports of annual sales in London ("Fur Trade Review," published monthly at No. 11, Bond Street, New York). The north-west coast statistics are from the annual Reports of the Department of Fisheries of Canada, and from Mr. Swan's Report in Section 5, vol. ii, of the quarto report of the United States Fish Commission. For Japan, Lobos Islands, Cape of Good Hope, and Falkland Islands the statistics are from the "Annual Statements of the Trade of the United Kingdom with Foreign Countries and British Possessions as presented to Parliament." Statistics for Cape Horn region are from sealing merchants of Stonington and New London, Connecticut.

The details of the fisheries for a series of years are shown in the following Table. (As to the number of persons employed, it is not possible to give details in all cases. At Pribyloff Islands, in 1880, there were 372 Aleuts and 18 whites. At Commander Islands there are about 300 persons. In the North-west coast fishery 523 Indian hunters and 100 whites, and in the Cape Horn fishery about 400 whites, of whom, perhaps, 300 are Chileans.)

Number of Fur Seal Skins from Principal Fisheries: 1871 to 1887.

[Compiled from official sources by A. H. Clark. No returns for spaces blank.]

Year.	Pribyloff Islands.	Commander Islands and Robben Reef.	North-west Coast of America.	Japan.	Falkland Islands.	Cape Horn.	Lobos Islands.	Cape of Good Hope.
1871	63,000	3,614	.....	Annual average estimated at 4,000 skins.	.....	Total 1870 to 1880, 92,750; average, 9,275.	.....	.....
1872	99,000	29,319	.....		.....		.....	.....
1873	99,640	30,396	.....		.....		.....	.....
1874	99,820	31,272	.....		1,085		7,954	9,393
1875	99,500	36,274	.....		100		2,243	8,629
1876	99,000	26,960	.....		173		6,618	11,225
1877	85,000	21,532	.....		1,386		22,550	11,065
1878	95,000	31,340	.....		2,366		11,931	13,086
1879	99,968	42,752	18,500		4,038		6,900	15,128
1880	99,950	48,504	19,150		2,427	9,275	10,900	7,731
1881	85,000	42,640	.....		620	6,610	8,887	8,280
1882	99,800	46,000	17,700*		50	8,600	15,067	11,497
1883	78,000	25,000	.....	11,943	8	Returns not received.	13,950	7,020
1884	99,500	38,000	15,641*	.....	684		10,722	3,924
1885	99,600	42,000	15,000*	.....	.....		11,223	4,407
1886	98,000	45,000	38,907*	3,695	68		15,949	3,378
1887	99,890	48,000	29,211†	.....	.....		.....	.....

* Catch landed at British Columbia vessels. †Mostly taken in Behring's Sea. See Schedule (A).

176 The second point upon which information is requested is "that of the destruction of the fur seal, resulting either in its extermination or the diminution of its yield in places where it formerly abounded," &c.

At the beginning of the present century there were great rookeries of fur seal at Falkland Islands, at the South Shetlands, at Masafuera, at South Georgia, and at many other places throughout the Antarctic region. These places were visited by sealing-vessels, and indiscriminate slaughter of the animals resulted in the extermination of the species, or in such diminution in their numbers that the fishery became unprofitable.

The details of the Antarctic fishery are given in Section 5, vol. ii, of the quarto Report of the United States Fish Commission, pp. 400–467; in Report by H. W. Elliott on "Seal Islands of Alaska," 6, pp. 117–124 (reprinted in vol. viii, 10th Census Reports); in "Monograph of North American Pinnipeds," by J. A. Allen (Misc. Pub., xii, United States Geological Survey); in "Fanning's Voyages Round the World" (New York, 1833); in "Narrative of Voyages and Travels in Northern and Southern Hemispheres," by Amasa Delano (Boston, 1817); and in numerous other works, to which reference will be found in the above volumes.

A few men are still living who participated in the Antarctic seal fisheries years ago. Their stories of the former abundance of fur seals I have obtained in personal interviews. As to the manner of destruction there is but one thing to say: an indiscriminate slaughter of old and young, male and female, in a few years results in the breaking up of the largest rookeries, and, as in the case of Masafuera and the Falkland Islands, the injury seems to be a permanent one. As an instance, the South Shetlands were first visited in 1819, when fur seals were very abundant; two vessels in a short time securing full fares. In 1820 thirty vessels hastened to the islands, and in a few weeks obtained upwards of 250,000 skins, while thousands of seals were killed and lost. In 1821–22 Weddell* says: "320,000 skins were taken. . . . The system of extermination was practised, . . . for whenever a seal reached the beach, of whatever denomination, he was immediately killed and his skin taken; and by this means, at the end of the second year, the animals became nearly extinct. The young, having lost their mothers when only three or four days old, of course died, which, at the lowest calculation, exceeded 100,000." In subsequent years, until 1845, these islands were occasionally visited by vessels in search of seal-skins,

* "Weddell's Voyages," p. 130, quoted in Section V, vol. ii, quarto Report of United States Fish Commission, p. 407.

but never after 1822 were many animals found there. About 1845 the Antarctic fur-sealing was abandoned. In 1871 the industry was renewed, and a few vessels secured some valuable furs from the South Shetlands, but in a few years voyages there became unprofitable. (See sec. 5, vol. ii, United States Fish Commission Report, pp. 402–458.)

The same story may be told of Masafuera, from which island about 3,500,000 fur seal skins were taken between the years 1793 and 1807. (See sec. 5, as above, p. 407.) Captain Morrell states that in 1807 "the business was scarcely worth following at Masafuera, and in 1824 the island, like its neighbour Juan Fernandez, was almost entirely abandoned by these animals. (Morrell's Voyage: New York, 1832, p. 130.) Scarcely any seals have since been found at Masafuera. Delano states that in 1797 there were two or three million fur seals on that island. Elliott, in his Report already cited, gives accounts of earlier voyages to Masafuera, &c. I have consulted log-books and journals of several voyages, all agreeing in the former abundance, and the extermination of the fur seal on Masafuera as well as on other Antarctic or southern islands.

At the Falkland Islands both fur seals and sea-lions abounded, but there, too, they were destroyed.

The sealing business at South Georgia was most prosperous in 1800, during which season sixteen American and English vessels took 112,000 fur seal-skins. Though not as important a rookery as some of the other islands, considerable numbers of fur seals have been taken from South Georgia. Since 1870 some good cargoes of elephant seal oil have been taken there.

Fur seals were abundant at the Tristan d'Acunha Islands at the beginning of the century, and because of the almost inaccessible caves and rocks to which they resort a few have survived—or, at least, as late as 1873 a few were annually taken there.

On the west cost of Africa, from the Cape of Good Hope to the 16th degree of south latitude, there was until 1870 a considerable number of fur seals of an inferior quality, but they are now practically exhausted, the few skins marketed as coming from there being taken on various hauling grounds on islets farther south and east. (See sec. 5, vol. ii, United States Fish Commission Report, p. 415.)

The Prince Edward group, Crozet Islands, Kerguelen Land, and other smaller islands in the Southern Indian and Southern Pacific Oceans, were important
177 seal fisheries both for the fur and elephant seal. At none of them is any number of seals found to-day. The English exploring ship "Challenger" visited Kerguelen Land in 1873–76, and reports:

"Two of the whaling schooners met with at the island killed over seventy fur seals in one day, and upwards of twenty at another, at some small islands off Howe Islands to the north. It is a pity that some discretion is not exercised in killing the animals, as is done at St. Paul Island, in Behring's Sea, in the case of the northern fur seal. By killing the young males and selecting certain animals only for killing, the number of seals even may be increased; the sealers in Kerguelen Island kill all they can find." (See "Report of the Scientific Results of the Exploring Voyage of Her Majesty's ship 'Challenger,' 1873–76. Narrative of the Cruise. Vol. i, in two parts. 4to. Published by order of Her Majesty's Government, 1885.")

In these volumes will be found similar references to other seal islands visited by the "Challenger." In referring to Marion Island the Report says:

"The ruthless manner in which fur and elephant seals were destroyed by the sealing parties in the early part of this century has had the effect of almost exterminating the colony that used these desolate islands for breeding purposes." (Vol. i, p. 294.)

To recapitulate: concerning seal rookeries south of the equator, I may say that there is no single place where any number are now known to resort except on the Lobos Islands, off Peru, and at the mouth of the Rio de la Plata, and on the neighbouring hauling grounds at the cliffs of Cabo Corrientes. Here they are, and have long been, protected by the Argentine Republic or Uruguay, and the rookery appears to remain about the same size, with little apparent increase or decrease in the number of animals, as may be seen by statistics of the catch in the Table above given.

The small rookeries or hauling grounds at Diego Ramirez Islands, Cape Horn, and the rocky islets in that vicinity, from 1870 to 1883 or 1884 yielded some return to the hardy sealers of Stonington and New London, Connecticut, from which ports a half-dozen vessels have been annually sent. Even this last resort of American sealers is practically exhausted, and only by much search is a profitable voyage made there. Dr. Coppinger, who was at Cape Horn in 1878–82 ("Cruise of the 'Alert,'" by R.W. Coppinger: London, 1883), tells of the difficulties of sealing at Cape Horn, and of the profits made when even a few skins are secured. In 1880 Captain Temple "came through the western channels of Patagonia, having entered the straits at Tres Montes;" and on the Cavadonga group of barren rocks he says he found some thousands of seals.

Had the great southern rookeries been protected by Government, it is altogether probable, according to all authorities, that they would to-day yield many thousands of skins, in some cases equal to the valuable returns of the Pribyloff Group.

In proceeding up the Southern Pacific from Masafuera we pass St. Felix, the Lobos Islands, off Peru, and the Galapagos Islands, on which, as well as on other islands in that ocean, the fur seal once was found, but whence it has been exterminated. North of the equator we meet, first, the Gaudaloupe Islands, where in 1878 there were a few fur seals, presumably migrations from the Pribyloff Group. Moving northward, along the Californian and north-west coast, the fur seal is found in winter and early spring on its way to the great breeding grounds on the Pribyloff Islands. It is during this migration that the Pacific sealing-schooners of British Columbia and San Francisco capture them, and it is probable that if the fleet increases in size, with a corresponding increase in the number of seals taken, there will ere long be an appreciable decrease in the number of seals on the Pribyloff Islands. This cannot but be the result, for many seals are killed and not secured, and there is the same indiscriminate slaughter as regards young and old, male and female, that was practised at the southern rookeries. The statistics showing the present growing condition of the north-west coast fishery, and the efforts of the fishermen to follow the seals even into Behring's Sea, are already a matter of record, and need not be repeated here, except to refer to the Annual Reports of the Department of Fisheries of Canada. In the Report for 1886 will be found (on p. 249) the names of the British Columbian fleet, aggregating 20 vessels, manned by 79 sailors and 380 hunters, and their catch is given at 38,917 skins, as compared with 13 vessels, taking 17,700 skins, in 1882. The American vessels in this fleet in 1880 and and their catch is given by Mr. Swan in sec. 5, vol. ii, of the quarto Report of the United States Fish Commission.

It is not necessary that I refer to the condition of the rookeries on the Pribyloff Islands. There can be no question concerning the advisability of regulating the number of animals to be killed, and the selection of such animals as will not interfere with the breeding of the species. The history of the islands at the beginning of the century, when there was an indiscriminate slaughter of fur seals, and the protection of the animals in 1808 and thereafter by the Russian and American Governments, is fully told by Veniaminov and by Elliott, and need not be repeated
178 here. (Veniaminov's "Zapieskie," &c., St. Petersburgh, 1842, vol. ii, p. 568, quoted by H. W. Elliott in "Seal Islands of Alaska," pp. 140–145, vol. viii, Tenth Census Report.)

The Commander Islands (Behring and Copper Islands), in Behring's Sea, and Robben Reef, near Saghalien, in the Okhotsk Sea, are leased by the Alaska Commercial Company, and are protected by the Russian Government in much the same manner that the Pribyloff Islands are protected by the United States Government. A description of the seal industry on those islands is given by Professor Nordenskiold in "Voyage of the Vega," a translation of a portion of his Report being given by Mr. Elliott on pp. 109–115 in "Seal Islands of Alaska." At Robben Reef it is impossible to establish a station, the rock being often wave-washed; but the Alaska Company send men there in the season, to gather from 1,500 to 4,000 skins each year. The agent of the Russian Government confers with the Alaska Company's agent each year to determine the number of skins that shall be taken in the Commander Islands.

The seals taken by the Japanese are those migrating from the Commander Group, and are not secured in large numbers, the average being about 4,000, though some years as many as 11,000 are taken.

SCHEDULE (A.)—*Memorandum of Seal-skin Seizures, Vessels, &c., in Behring's Sea, in 1887.*

No.	Rig.	Name.	Nation.	Tonnage.	Captain.	Owner.	Seized.	Date.	Seals.
1	Steam schooner...	W. P. Sayward.....	British.....	59	Geo. R. Terry.....	J. D. Warren.....	Revenue steamer "Rush"..	July 10	477
2	Ditto	Anne Beck	"	36	Louis Olsen.....	"	" " " ..	" 3	336
3	Ditto	Grace.....	"	76	Wm. Petit	"	" " " ..	" 18	760
4	Ditto	Dolphin	"	70	J. D. Warren.....	"	" " " ..	" 13	618
5	Schooner	Alfred Adams	"	68	W. W. Dyer.....	J. Guteman	" " " ..	Aug. 12	1,379
6	Ditto	Ada	"	65	J. Gandin.....	J. Boskowitz.....	Steamer "Rear".....	" 25	1,876
		Lottie Fairfield*.....				Lynde A. Hough	" "Rush"		
7	Ditto	Challenger.....	American ..	36	H. B. Jones.....	A. Douglass.....	" "	" 5	443
8	Ditto	Lily L	"	63	J. W. Todd.....	G. W. Ladd.....	" "	July 1	151
9	Ditto	Annie	"	25	H. Brown.....	Jas. Latlin	" "	" 25	195
10	Ditto	Kate and Annie.....	"	16	Chas. Lutjen.....	Chas. Lutjen.....	" "	Aug. 11	304
11	Ditto	Ellen	"	12	T. H. Wentworth.....	G. W. Lybyjust.....	" "	" 12	577
12	Ditto	Alpha	"	26	Jas. Talten.....	Jas. Talten.....	" "	" 12	195
						J. V. Garvin.....		" 12	389
13	Ditto	San José.....	"	51	J. S. Lee.....	J. S. Lee.....	" "	" 23	891
						J. D. Griffin.....			
14	Ditto	Angel Dolly	"	18	A. Tulles.....	"	G. R. Tingle, Treas. Agent.	" 5	178
15	Ditto	Allie T. Alger.....	"	70	C. E. Raynor.....	.....	Steamer "Bear"	" 25	1,594
16	Ditto	Sylvia Handy.....	.....	68	J. L. Cathcut.....	L. N. Handy and Son	" "	Sept. 2	1,597
									11,969

* Vessels not captured.

Arrival of Sealing Schooners from Behring's Sea in 1887, as far as reported to October 5, 1887.

Arrived at—	Name of Schooner.	Number of Skins.
Port Townsend	Lottie	700
Victoria	Mary Taylor	1,003
"	Pathfinder	2,300
"	Penelope	1,500
"	Black Diamond	595
"	Mountain Chief	700
"	Lottie Fairfield	2,997
"	Adel	1,350
"	Favorite	1,887
"	Teresa	1,246
"	Triumph	480
"	City of San Diego	1,187
"	Vanderbilt	1,300
		17,242

Recapitulation, as reported up to October 5, 1887:

Skins seized	11,969
Skins landed	17,242
Total	29,211

179 [Inclosure 3 in No. 93.]

Mr. Elliott to Mr. Bayard.

SMITHSONIAN INSTITUTION,
Washington, D., C., December 3, 1887.

SIR: During the course of my extended studies of the fur-seal on its breeding and hauling grounds in Behring's Sea, I was led naturally into a very careful examination of the subject of its protection and perpetuation. This investigation caused me to give much attention then to the effect which pelagic sealing would have upon the well-being and the conservation of these anomalous and valuable interests of our Government as we view them upon the Pribyloff group.

When preparing, in 1881, a final arrangement of my field notes and memoranda for publication in my Monograph of the Seal Islands of Alaska (10th Census U. S. A.), the late Professor Baird suggested that I omit the discussion of this theme of pelagic sealing, because it might serve to invite an attack which otherwise would never be made upon these preserves of our Government.

This attack, however, has recently been made, and the thought occurs to me now that a brief epitome of my study of the effect which this plan of sealing will have upon the integrity and value of our fur-bearing interests in Behring's Sea—that such a brief, yet accurate, statement will be of service to you. I therefore venture to present the following transcript.

It is now well understood and unquestioned—

1. That the fur-seal of Alaska is obliged to haul out annually upon the Pribyloff Islands for the purpose of breeding and shedding its pelage.

2. That from the time of its departure from these islands in the autumn of every year up to the time of its return to them in the following spring it lands nowhere else.

3. That it arrives *en masse* upon these islands in June and July, and departs from them in October and November.

4. That when leaving the islands in the fall it heads directly for, and rapidly passes out from Behring's Sea into, the waters of the North Pacific Ocean. Its paths of travel are bee-lines from the Pribyloff group to and through the numerous passes of the Aleutian Archipelago; the passes of Oonimak, Akootan, Oonalga, Oomnak, and the Four Mountains are most favoured by it.

5. That it returns from the broad wastes of the North Pacific Ocean by these same paths of departure.

Therefore, if you will glance at the Map of Alaska, you will observe that the convergence and divergence of these watery paths of the fur-seal in Behring's Sea to and from the Seal Islands resembles the spread of the spokes of a half-wheel—the Aleutian chain forms the felloe, while the hub into which these spokes enter is the small Pribyloff group.

Thus you can see that as these watery paths of the fur-seal converge in Behring's Sea they, in so doing, rapidly and solidly mass together thousands and tens of thousands of widely scattered animals (as they travel) at points 50 and even 100 miles distant from the rookeries of the Seal Islands.

Here is the location and the opportunity of the pelagic sealer. Here is his chance to lie at anchor over the shallow bed of Behring's Sea, 50 and 100 miles distant from the Pribyloff group, where he has the best holding ground known to sailors, and where he can ride at any weather safely swinging to his cable and in no danger from a lee shore if it should slip. The immediate vicinity, however, of the Aleutian passes is dangerous in the extreme to him. There he encounters terrible tide-rips, swift currents, and furious gales formed through the entrances, with the very worst of rough, rocky, holding ground.

But up here, anywhere from 3 to 100 miles south of the Seal Islands, in Behring's Sea, in that watery road of the returning fur-seal millions, he has a safe and fine location from which to shoot, to spear, and to net these fur-bearing amphibians, and where he can work the most complete ruin in a very short time.

His power for destruction is still further augmented by the fact that those seals which are most liable to meet his eye and aim are female fur-seals, which, heavy with young, are here slowly nearing the land, reluctant to haul out of the cool water until the day and hour arrives that limits the period of their gestation.

The pelagic sealer employs three agencies with which to secure his quarry, viz.: He sends out Indians with canoes and spears from his vessel; he uses rifle and ball, shot-guns and buck-shot; and last, but most deadly and destructive of all, he spreads the "gill-net" in favourable weather.

180 With gill-nets, under run by a fleet of sealers in Behring's Sea, across these converging paths of the fur-seal, anywhere from 3 to 100 miles southerly from the Seal Islands, I am extremely moderate in saying that such a fleet could and would utterly ruin the fur-seal rookeries of the Pribyloff Islands in less time than three or four short seasons. If these men were unchecked every foot of that watery area of fur-seal travel in Behring's Sea above indicated could and would be traversed by these deadly nets, and a seal would scarcely have one chance in ten to safely pass such a cordon in attempting to go and return from its breeding haunts.

Open these waters of Behring's Sea to unchecked pelagic sealing, then a fleet of hundreds of vessels—steamers, ships, schooners, and what not—would immediately venture into them, bent upon the most vigorous and indiscriminate slaughter of these animals. A few seasons then of the greediest rapine, then nothing left of those wonderful and valuable interests of the public which are now so handsomely embodied on the Seal Islands. Guarded and conserved as they are to-day, they will last for an indefinite time to come, objects of the highest commercial value and good to the world, and subjects for the most fascinating biological study.

It is also well to note the fact that not an eligible acre of land is barred out from settlement or any other fit use by our people, and not a league of water is closed to any legitimate trade or commerce in all Alaska by this action of our Government in thus protecting the fur-bearing rookeries of the Pribyloff group.

Such are the facts in this connection. They are indisputable. No intelligent unselfish man will advocate for a moment the policy of destruction in this instance; he never will if fully aware of the facts bearing on the question.

There are only two parties in this controversy. The party of destruction demands the full right to unchecked pelagic sealing in Behring's Sea, while the party of preservation demands the suppression of that sealing. Comment is unnecessary.

Very truly, &c.

(Signed) HENRY W. ELLIOTT.

No. 94.

Sir L. West to the Marquis of Salisbury.—(*Received February 21.*)

WASHINGTON, *February 10, 1888.*

MY LORD: I have the honour to inclose to your Lordship herewith an article from the "New York Herald" on the Behring's Sea seizures and closed seas.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 94.]

Extract from the "New York Herald" of February 8, 1888.

CLOSED SEAS.—An Ottawa despatch states that Professor Dawson is on the way to Washington, as agent of the Canadian Government, in relation to complaints of that Government about wrongs suffered by some of its people in Alaska.

This refers probably to the seizure of a number of Canadian sealing-vessels in Behring's Sea and their condemnation at Sitka. The "Carolina," "Onward," and "Thornton," all confessedly Canadian sealers, were seized in August 1886 by an American Revenue-cutter, while over 60 miles from land, in Behring's Sea, and were later condemned by the United States Court. About the same time several American sealing-vessels—the "San Diego," "Sierra," and others—were also seized, under similar circumstances, and also condemned.

Early in 1887 the President ordered the discontinuance of the proceedings against the Canadian sealers and their discharge, but the American vessels captured and condemned were held. Subsequently, in July 1887, five other Canadian sealers—the "Grace," "Dolphin," "Alfred Adams," "W. P. Sayward," and "Anna Beck"—were seized, also at a distance from land. For all these seizures, and the losses inflicted on the owners and crews, damages are claimed by the British Government. In considering these claims, the question whether the United States can hold Behring's Sea to be a closed sea turns up.

We suppose that if it were not for a desire to preserve the valuable fur seal fisheries this question would not be raised, because Behring's Sea, geographically, is plainly an integral part of the Pacific Ocean. Russia, when she owned both
181 shores of it, may have claimed it as a closed sea, just as Spain once claimed the exclusive right to navigate the whole Pacific Ocean. But in modern times such claims have been considered preposterous, and have been shelved. Our own Government has been in the past most persistent in its opposition to "the headland" theory, and to the assertion by other Powers of exclusive rights to waters much more closely land-bound than the Behring's Sea. The United States were the first to resist the claims of the Barbary Powers to a tribute for entering the Mediterranean. Our Government resisted the payment of the "Sound dues" to Denmark as "inconsistent with just principles of international law," and asserted "the freedom of the Baltic Sound," and "insisted on the right of free transit into and from the Baltic."

Later, the United States even refused to acknowledge the right of Turkey to exclude our vessels from the Black Sea, and we have always refused to acknowledge Great Britain's claim to make the Gulf of St. Lawrence a closed water. We do not suppose, therefore, that the Government will defend the seizure of the Canadian sealers on the ground that it can prevent foreign ships from entering Behring's Sea, or from fishing or sealing in it beyond 3 miles from the shore. That northern extension of the Pacific Ocean is, it seems to us, undoubtedly an open sea, in which all nations may freely sail and fish, keeping outside the 3-mile limit.

The preservation of the seal fisheries is, of course, of interest to the Government, which draws a revenue from these fisheries sufficient, we believe, to pay the interest on the cost of Alaska.

It has often been urged that, if any one may capture seals in the Behring's Sea, the animals will soon become extinct. So the Canadians represent that if our mackerel fishers are allowed to use the Gulf of St. Lawrence, the mackerel fishery there will be destroyed for the Canadians, the American seines destroying, as they allege, the young fish. We have not noticed that much attention has been paid here to this plea of the Canadians.

Perhaps, if our fishermen will agree not to fish in Canadian waters, the Canadians will agree not to seal in Behring's Sea?

Meantime, there is a bill of damages on each side; for the Canadians have dealt with great severity, not to say brutality, with our fishermen in their waters.

No. 95.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *February 22, 1888.*

SIR: I transmit herewith, for your information, a copy of a letter from the United States Minister in London,* inclosing a copy of a despatch addressed to him by Mr. Bayard on the 7th instant, in which attention is called to the necessity for the adoption of measures for the protection of the fur-seals in Behring's Sea.

I am, &c.

(Signed) SALISBURY.

No. 96.

The Marquis of Salisbury to Sir L. West.

[Extract.]

FOREIGN OFFICE, *February 22, 1888.*

The United States Minister called to-day at the Foreign Office, and spoke to me about the question of the protection of the fur seals in Behring's Sea.

He said that the difficulties in regard to the seal fisheries in that sea were mainly connected with the question of the close time, and that no attempt had been made by the authorities of the United States to stop the fishing there of any vessels at the time when it was legitimate.

Mr. Phelps then made a proposal on the bases embodied in Mr. Bayard's despatch of the 7th February, a copy of which accompanies my previous despatch of this day's date.*

Mr. Bayard there expresses the opinion that the only way of preventing the destruction of the seals would be by concentrated action on the part of the United States, Great Britain, and other interested
182 Powers to prevent their citizens or subjects from killing fur seals with fire-arms or other destructive weapons north of 50° of north latitude, and between 160° of longitude west and 170° of longitude east from Greenwich, during the period intervening between the 15th April and 1st November.

I expressed to Mr. Phelps the entire readiness of Her Majesty's Government to join in an Agreement with Russia and the United States to establish a close time for seal-fishing north of some latitude to be fixed.

No. 97.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *March 3, 1888.*

SIR: I am directed by the Marquis of Salisbury to transmit herewith, for the information of Secretary Sir H. Holland, a copy of a letter from the United States Minister in London,* inclosing a copy of a

* See No. 93.

despatch addressed to him by Mr. Bayard on the 7th ultimo, in which attention is called to the necessity for the adoption of measures for protecting the fur seals in Behring's Sea.

I am at the same time to inclose a copy of a despatch which has been addressed to Sir L. West,* repeating the substance of what passed at an interview between Lord Salisbury and Mr. Phelps on this question on the 22nd ultimo.

I am to request that in laying these papers before Sir H. Holland, you will move him to furnish Lord Salisbury with any observations he may have to offer on the subject.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 98.

The Marquis of Salisbury to M. de Staal.

FOREIGN OFFICE, *March 3, 1888.*

MY DEAR AMBASSADOR: I informed you a short time ago that the Government of the United States had proposed negotiations with the object of regulating the catching of fur seals in Behring's Sea.

It would be a source of satisfaction to me if the Russian Government would authorize your Excellency to enter into a discussion of the matter with Mr. Phelps and myself, and I should be greatly obliged if you would communicate on the subject with M. de Giers and inform me of the decision at which his Excellency may arrive.

I have, &c.

(Signed) SALISBURY.

No. 99.

M. de Staal to the Marquis of Salisbury.—(Received March 8.)

LONDRES, *le 24 Février (7 Mars), 1888.*

CHER LORD SALISBURY: J'ai eu l'honneur de recevoir la lettre que vous avez bien voulu m'adresser en date du 3 Mars au sujet de la proposition faite par le Gouvernement des Etats-Unis d'Amérique en vue du règlement de la question de la chasse aux phoques dans la mer de Behring.

Votre Excellence m'ayant fait part du désir du Gouvernement de Sa Majesté Britannique de voir la Russie concourir aux arrangements à concerter pour préserver de la ruine une branche d'industrie importante, je m'empresserai d'en informer le Gouvernement Impérial en priant M. de Giers de me munir des instructions nécessaires pour le cas où le Ministère Impérial m'autoriserait à m'associer aux négociations sur l'objet en question.

Veuillez, &c.

(Signé) STAAL.

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* No. 96.

12 [Translation.]

LONDON, *February 24 (March 7), 1888.*

DEAR LORD SALISBURY: I have had the honour to receive the letter which you were good enough to address to me on the 3rd March respecting the proposal made by the Government of the United States of America with the object of settling the question of seal-hunting in Behring's Sea.

Your Excellency having acquainted me of the desire of Her Britannic Majesty's Government to have the co-operation of Russia in the arrangements to be concerted for the preservation from ruin of an important branch of industry, I shall lose no time in informing the Imperial Government, and I shall ask M. de Giers to furnish me with the necessary instructions in case the Imperial Government should authorize me to take part in the negotiations on the subject in question.

Receive, &c.

(Signed) STAAL.

No. 100.

Colonial Office to Foreign Office.—(Received March 13.)

DOWNING STREET, *March 12, 1888.*

SIR: In reply to your letter of the 3rd instant, I am directed by Lord Knutsford to acquaint you, for the information of the Marquis of Salisbury, that he thinks it will be necessary to consult the Canadian Government on the proposal to establish a close time for seals in Behring's Sea before expressing a final opinion upon it.

A copy of your letter and its inclosure has been forwarded to the Governor-General with a view to obtaining an expression of the views of his Ministers upon it.

I am to add that Lord Knutsford is inclined to view the proposal of the United States Government with favour, but that he presumes that it will be made quite clear, should Her Majesty's Government assent to it, that such assent will not be taken as an admission of the claims of the United States in Behring's Sea, which have formed and still form the subject of controversy.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 101.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *March 17, 1888.*

SIR: I have laid before the Marquis of Salisbury your letter of the 12th instant, relative to the proposals of the United States Government for the establishment of a close season for the fur-bearing seals which frequent Behring's Sea.

By his Lordship's direction I transmit herewith for your information copies of the correspondence, marked in the margin,* which has recently

*Nos. 98, 99, and 102.

passed on this subject; and I am to request that in laying these papers before Lord Knutsford you will call his attention to the instructions given to Sir L. West to inform the United States Secretary of State that, in acting upon the invitation conveyed in Mr. Bayard's despatch to Mr. Phelps of the 7th ultimo, Her Majesty's Government do not admit the rights of jurisdiction exercised by the United States authorities in Behring's Sea during the fishing seasons of 1886–87 and 1887–88, and that the presentation of claims on account of the wrongful seizures of British vessels engaged in the seal-fishing industry will not be affected by such action.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

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184 No. 102.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *March 17, 1888.*

SIR: Since forwarding to you my despatch of the 22nd ultimo I have been in communication with the Russian Ambassador at this Court, and have invited his Excellency to ascertain whether his Government would authorize him to discuss with Mr. Phelps and myself the suggestion made by Mr. Bayard in his despatch of the 7th February, that concerted action should be taken by the United States, Great Britain, and other interested Powers, in order to preserve from extermination the fur seals which at certain seasons are found in Behring's Sea.

Copies of the correspondence on this question which has passed between M. de Staal and myself is inclosed herewith.*

I request that you will inform Mr. Bayard of the steps which have been taken, with a view to the initiation of negotiations for an Agreement between the three Powers principally concerned in the maintenance of the seal fisheries. But in so doing, you should state that this action on the part of Her Majesty's Government must not be taken as an admission of the rights of jurisdiction in Behring's Sea exercised there by the United States authorities during the fishing seasons of 1886–87 and 1887–88, nor as affecting the claims which Her Majesty's Government will have to present on account of the wrongful seizures which have taken place of British vessels engaged in the seal-fishing industry.

I am, &c.

(Signed) SALISBURY.

No. 103.

Colonial Office to Foreign Office.—(Received March 22.)

DOWNING STREET, *March 22, 1888.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a notice of a question to be asked in the House of Commons on Monday next by Mr. Gourley, respecting the alleged clearing for Behring's Sea of Canadian sealing

* Nos. 98 and 99.

schooners with armed Indian crews for the purpose of waging war upon American Revenue cutters, should their commanders attempt to molest them.

The question also asks what measures Her Majesty's Government intend adopting for the purpose of arriving at an amicable solution of the Alaskan Fisheries disputes.

Lord Knutsford has telegraphed to the Governor-General of Canada to inquire into the truth of the report referred to in the question, but he would be glad if the Marquis of Salisbury would inform him of the answer which should be returned to that part of the question which relates to the measures to be adopted for a settlement of the Alaskan Fisheries dispute.

Lord Knutsford would also be glad to receive Lord Salisbury's opinion as to whether it would be legally justifiable, and, if so, advisable, to desire the commanders of Her Majesty's ships to disarm any British sealing schooners sailing with such intention as is alleged in the report.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure in No. 103.]

Questions to be asked in the House of Commons, March 26, 1888.

Mr. Gourley,—To ask the Under-Secretary of State for the Colonies whether it is correct, as reported by cable from Victoria, British Columbia, that a number of Canadian sealing schooners have been permitted to clear for Behring's Sea with the intention of prosecuting seal-fishing contrary to the regulations of the United States Alaskan authorities, carrying large Indian crews for the purpose of waging war upon American Revenue cutters, should their commanders attempt to molest them.

And what measures Her Majesty's Government intend adopting for the purpose of arriving at an amicable solution of the Alaskan Fiseries disputes.

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185 No. 104.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *March 24, 1888.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 22nd instant, calling attention to a notice of a question to be asked by Mr. Gourley in the House of Commons on the 26th instant (1) in regard to the alleged clearing for Behring's Sea of certain Canadian sealing schooners with armed Indian crews, for the purpose of waging war upon American Revenue cutters, should the commanders of the latter attempt to molest them; and (2) as to the measures which Her Majesty's Government intend to adopt for arriving at an amicable solution of the Alaskan Fisheries disputes.

With reference to the latter part of Mr. Gourley's question, I am to request that you will state to Lord Knutsford that, although some delay is inevitable in pressing for an immediate settlement of the questions which have arisen between this country and the United States in connection with the fur-seal fisheries in Behring's Sea, there is no reason to believe that any further illegal seizures of British vessels will take place, especially as the United States Government have invited Her Majesty's Government to negotiate a convention for a close time, thereby

admitting their claim to exclusive rights in those waters to be untenable. Lord Salisbury, however, will again endeavour to obtain assurances on the subject from the Government of the United States.

As regards the rumours which have reached this country by telegraph from Victoria, British Columbia, of the clearance of Canadian vessels for Behring's Sea, manned with armed Indian crews, I am to state that Lord Salisbury will be prepared to submit the matter to the Law Officer of the Crown, should the rumours in question be confirmed, but that if the vessels are armed, not for the purpose of attack, but for the purpose of resistance to illegal seizure on the high seas, it would seem difficult to justify any interference with them on the part of Her Majesty's cruizers.

In conclusion, I am to suggest, for Lord Knutsford's consideration, that, in reply to Mr. Gourley's inquiry as to "what measures Her Majesty's Government intend adopting for the purpose of arriving at an amicable solution of the Alaskan Fisheries disputes," it might be stated that the question is now under the consideration of the two Governments concerned, but that it would be premature at this moment to say more than that Her Majesty's Government have no reason to doubt that a satisfactory arrangement will be arrived at.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 105.

Colonial Office to Foreign Office.—(Received March 26.)

DOWNING STREET, *March 24, 1888.*

SIR: With reference to my letter of yesterday's date respecting a question to be asked in the House of Commons upon the subject of the alleged clearance of Canadian sealing vessels for the Behring's Sea with armed Indian crews, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a telegram which has this day been received from the Governor-General of Canada.

I am to request to be informed of the answer which Lord Salisbury would wish to be returned to the Governor-General in regard to the latter part of his telegram.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 105.—Telegraphic.]

The Marquis of Lansdowne to Lord Knutsford.

OTTAWA, *March 22, 1888.*

I have received your telegram of the 22nd. The press has published rumour referred to, but it is not credited here, or confirmed by information, private or official.

It is, however, of great importance, in order to avoid injury to fishing interest
186 and risk of further complications, to obtain from United States Government explicit statement of its intentions as to sealers found in Behring's Sea this season.

No. 106.

Count Piper to the Marquis of Salisbury.—(Received March 27.)

En se référant à la note verbale en date du 11 Octobre dernier, par laquelle M. le Marquis de Salisbury a exprimé le désir de connaître si le Gouvernement du Roi accepterait l'invitation qui lui avait été adressée par le Gouvernement des États-Unis à entrer dans un arrangement concernant la pêche aux phoques dans la mer de Behring, le Comte Piper a l'honneur, d'ordre de son Gouvernement, de lui communiquer ci-joint la réponse que le Comte Ehrensvärd a fait parvenir à ce sujet au Ministre des États-Unis à Stockholm.

LONDRES, *le 24 Mars, 1888.*

[Translation.]

With reference to the *note verbale* of the 11th October last, in which the Marquis of Salisbury expressed the wish to know if the King's Government would accept the invitation addressed to them by that of the United States to come to an arrangement concerning the seal fishery in Behring's Sea, Count Piper has the honour, by order of his Government, to communicate to Lord Salisbury the inclosed reply which Count Ehrensvärd has addressed to the United States Minister at Stockholm on the subject.

LONDON, *March 24, 1888.*

[Inclosure in No. 106.]

Count Ehrensvärd to the United States Minister at Stockholm.

LE 15 MARS, 1888.

Par une lettre en date du 17 Septembre de l'année passée Vous avez bien voulu, au nom de Votre Gouvernement, inviter les Royaumes-Unis à entrer dans un arrangement avec les États-Unis pour la préservation des phoques dans la mer de Behring.

La chasse aux phoques dans ces parages n'étant, jusqu'à présent, que d'un intérêt minime pour les Royaumes-Unis, le Gouvernement de Roi a cru ne pas devoir prendre part activement à ces pourparlers, lesquels il suivra toutefois avec toute l'attention que mérite l'affaire. Il sera ainsi heureux d'apprendre que les pourparlers engagés entre les Puissances intéressées en première ligne à ce sujet aient pu aboutir à un arrangement international, et que la faculté d'adhérer à l'entente serait, le cas échéant, réservée aux autres Puissances.

Veuillez, &c.

(Signé) EHRENSVÄRD.

[Translation.]

MARCH 16, 1888.

In a letter dated the 17th September of last year You were good enough, in the name of Your Government, to invite the United Kingdoms to enter into an arrangement with the United States for the preservation of seals in Behring's Sea.

As the hunting of seals in those regions is at present but of very slight interest to the United Kingdoms, the Government of the King have not thought it their duty to take an active part in these negotiations, though they will be glad to follow them with all the attention which the matter deserves. They will also be glad to learn that the negotiations between the Powers chiefly interested have successfully resulted in an international arrangement, and that liberty will be reserved to the other Powers to join in such an arrangement should they desire to do so.

Receive, &c.

(Signed) EHRENSVÄRD.

187 No. 107.

Colonial Office to Foreign Office.—(Received March 29.)

DOWNING STREET, *March 28, 1888.*

SIR: With reference to the letter from this Department of the 24th instant, and to yours of the same date, relating to the alleged clearing for Behring's Sea of certain Canadian sealing schooners with armed Indian crews, for the purpose of resisting the American Revenue cutters, should the commanders of the latter attempt to molest them, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a telegram received from the Governor-General of Canada, from which it appears that this rumour is not unfounded.

Lord Knutsford desires to call the attention of Lord Salisbury to the suggestion of the Governor-General that the Admiralty should instruct the Admiral commanding on the station to watch the proceedings on the spot.

His Lordship would also suggest that this matter should be brought under the immediate notice of the United States Government in order that a definite announcement of their intentions during the present season with reference to the Behring's Sea sealers may be obtained; with such information Her Majesty's Government would be better able to consider how further complications may best be avoided.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure in No. 107.—Telegraphic.]

Lord Lansdowne to Lord Knutsford.

OTTAWA, *March 27, 1888.*

I am informed by Lieutenant-Governor of British Columbia that sealers on the point of departure for Behring's Sea are arming the vessels and crews to resist capture by American Revenue cutters. We think it desirable that Admiral should be instructed to watch proceedings on the spot. I have telegraphed to Lieutenant-Governor to issue notice cautioning sealers to refrain from any assertion of right by force of arms, and pointing out grave results which might ensue from resort to arms whilst negotiations still in progress. It seems to us impossible to prevent fishermen taking on board the arms and ammunition usually required for their own protection and for use in seal-fishing. Reports reach us from Victoria that United States Government has issued orders for the seizure of all sealers found this season in Behring's Sea. Let me again urge necessity of obtaining from United States Government definite announcement of its intentions during present fishing season in those waters.

No. 108.

The Marquis of Salisbury to Sir L. West.—(Substance telegraphed.)

FOREIGN OFFICE, *March 30, 1888.*

SIR: I inclose, for your information, a copy of a letter from the Colonial Office,* inclosing a telegram from the Governor-General of Canada, from which it appears that the British vessels and crews now fitting out for the approaching seal-fishing season in Behring's Sea are being armed with a view to offering resistance to their capture by American cruizers when so occupied.

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*No. 107.

Lord Lansdowne also reports that it is rumoured in Victoria that orders have been issued by the United States Government for the seizure of all sealers found this season in Behring's Sea.

I request that you will inform Mr. Bayard of the report in question, and that you will earnestly represent to him the extreme importance that Her Majesty's Government should be enabled to contradict it.

I am, &c.

(Signed) SALISBURY.

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188 No. 109.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *March 30, 1888.*

SIR: I have laid before the Marquis of Salisbury your letter of the 28th instant, inclosing a telegram from the Governor-General of Canada, from which it appears that the vessels and crews now preparing for the seal-fishing season in Behring's Sea are being armed with a view to offering resistance to their capture in that sea.

I am to request that you will inform Lord Knutsford, in reply, that Sir L. West has been instructed to call Mr. Bayard's attention to the rumour current in Victoria that orders have been issued by the United States Government to capture British ships fishing in Behring's Sea, and he has been further directed to represent earnestly the extreme importance that Her Majesty's Government should be enabled to contradict the rumour in question.

On receipt of Sir L. West's reply a further communication will be addressed to you.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 110.

Sir L. West to the Marquis of Salisbury.—(Received April 2.)

WASHINGTON, *March 19, 1888.*

MY LORD: I have the honour to inclose to your Lordship herewith copy of a telegram which I have received from Mr. Foster, the Canadian Minister of Marine and Fisheries, as well as copy of a dispatch which I have addressed to the Marquis of Lansdowne in reply thereto, and which is based on unofficial communication with the State Department.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 110.—Telegraphic.]

Mr. Foster to Sir L. West.

OTTAWA, *March 6, 1888.*

It seems that Canadian sealers are required to carry appeal to United States Court, or, by failure to do that, will forfeit bonds. Can they be allowed, pending definite settlement between United States and Great Britain, to bond vessels and skins without obligation to appeal?

[Inclosure 2 in No. 110.—Extract.]

Sir L. West to the Marquis of Lansdowne.

WASHINGTON, *March 19, 1888.*

I have the honour to inclose to your Excellency herewith copy of a telegram which I have received from Mr. Foster, your Excellency's Minister of Marine and Fisheries, relative to pending proceedings in the cases of Canadian sealers seized in Behring's Sea, and, in reply, to inform your Excellency that the Attorney-General has stated that Rule X of the Practice in Admiralty and Rules of the Supreme Court (1887) make it plain that the confiscated ships can be bonded pending appeal.

No. 111.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *April 3, 1888.*

SIR: The United States Minister called upon me to-day, previous to his return to America. He was anxious to speak to me especially with reference to the condition of the seal-fishery in Behring's Sea.

189 He expressed the hope that instructions would soon arrive which would enable the Russian Ambassador to negotiate on the subject of establishing a close time during which the capture of seals in certain localities should not be permitted; and he added that, whenever that Convention could be arranged, it would put an end to all the difficulties which had arisen with respect to the seal-fishery in that sea.

Mr. Phelps was very anxious for dispatch because the destruction of the species was enormous, and was increasing in volume every year. But under the peculiar political circumstances of America at this moment, with a general election impending, it would, he said, be of little use, and, indeed, hardly practicable, to conduct any negotiation to its issue before the election had taken place. He held it, however, to be of great importance that no steps should be neglected that could be taken for the purpose of rendering the negotiation easier to conclude, or for supplying the place of it until the conclusion was obtained. He informed me, therefore, unofficially, that he had received from Mr. Bayard a private letter, from which he read to me a passage to the following effect:

"I shall advise that secret instructions be given to American cruizers not to molest British ships in Behring's Sea at a distance from the shore, and this on the ground that the negotiations for the establishment of a close time are going on."

But, Mr. Phelps added, there is every reason that this step should not become public, as it might give encouragement to the destruction of seals that is taking place.

I suggested to him that it would be desirable for Lord Lansdowne to know of it, as his Excellency was much embarrassed by the measures for self-defence which were being taken by some of the sealing-ships that were fitting out from British Columbia.

Mr. Phelps then said that he would have no objection to my communicating this information to Lord Lansdowne confidentially. At the same time he expressed the hope that I would represent to Lord Lansdowne the importance of refusing clearance, if he could do so, to all ships going out from ports in British Columbia to shoot seals in Behring's Sea during close time, that is to say, from the 15th April to the 1st November.

He also said he presumed that any Convention for exercising police in Behring's Sea must, in the case of America and Great Britain, be supported by legislation; and he would be very glad if Her Majesty's Government would try to obtain the requisite powers during the present Session.

I replied that the matter should have our immediate attention.

I am, &c.

(Signed) SALISBURY.

No. 112.

Sir L. West to the Marquis of Salisbury.—(Received April 4.)

[Telegraphic.]

WASHINGTON, *April 3, 1888.*

I have made representation to Secretary of State as directed in your telegram of the 30th ultimo. He begs me to inform your Lordship that no orders have been issued for capture of British ships fishing in Behring's Sea.

No. 113.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *April 5, 1888.*

SIR: With reference to your letter of the 28th ultimo, I am directed by the Marquis of Salisbury to state to you, for the information of Secretary Lord Knutsford, that a telegram has been received from Her Majesty's Minister at Washington reporting that the United States Secretary of State has informed him that no orders have been issued by the Government of the United States for the capture of British ships fishing in Behring's Sea.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

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190 No. 114.

Colonial Office to Foreign Office.—(Received April 11.)

DOWNING STREET, *April 10, 1888.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, an extract of a despatch from the Governor-General of Canada respecting the question of bonding the British sealing vessels captured by the United States cruizers in Behring's Sea during last season, and again urging the desirability of obtaining from the Government of the United States a distinct intimation of its intentions with regard to the approaching season.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 114.—Extract.]

The Marquis of Lansdowne to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, March 21, 1888.*

I am given to understand by my Minister of Marine and Fisheries that permission has actually been given to the owners of the British vessels to bond them pending appeal, provided that the sureties are citizens of the United States and resident therein. He has, however, learnt that the British Columbian owners who are concerned in this matter are not willing to bond their vessels if they are thereby bound to carry an appeal to the United States Courts, and if, by not proceeding with the appeal, they would thereby forfeit their bonds.

It has, moreover, been suggested that, by giving bonds pending an appeal to the Supreme Court of the United States, the owners might thereby place the matter outside the scope of any diplomatic negotiations which may take place upon this subject, a result which they would naturally be desirous of avoiding.

They have now inquired whether it would be possible for them to bond their vessels, &c., pending, not an appeal to the Supreme Court, but the diplomatic settlement of the question which has arisen in connection with the seal fishery in these waters.

I shall be glad if Her Majesty's Government will invite the attention of that of the United States to this request, which should be attended to as soon as possible.

From information which I have received, there is reason to believe that the sealskins on board of these vessels will be sold at Sitka on the 19th April.

In connection with the subject of this despatch, I venture again to call your attention to the inquiry made in my telegram of the 31st March, 1887, in regard to the action likely to be taken during the present year by cruizers of the United States in Behring's Sea against sealers frequenting these waters The uncertainty as to this has had a very prejudicial effect upon the fishing interests of British Columbia, and I would urge that, both in order to avoid this inconvenience, and also in order to obviate the risk of further friction between the two Governments, an explicit statement of its intentions should be obtained from that of the United States with as little delay as possible. It is, I think, obvious that an international arrangement whereby a close time would be established for fur-seals within certain limits is not likely to be arrived at in time to provide for the requirements of the fishing season of this year.

I have communicated a copy of this despatch to Sir Lionel West.

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191 No. 116.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *April 14, 1888.*

SIR: I laid before the Marquis of Salisbury your letter of the 10th instant, together with the despatch from the Marquis of Lansdowne therein inclosed, respecting the bonding of British sealing-vessels captured by the United States cruizers in Behring's Sea during last season, and again urging the desirability of obtaining from the United States Government a distinct intimation of their intentions with regard to the approaching season.

On this latter point my other letter of this day will have made known to the Secretary of State for the Colonies Lord Salisbury's views.

With regard to the question of "the bonding for appeal vessels or cargoes condemned to forfeiture by the District Court of Alaska," I am directed by Lord Salisbury to observe that the arrangement proposed in paragraph 5 of Lord Lansdowne's despatch would operate as an abandonment of the right of appeal without any certain prospect of a remedy by diplomatic action. His Lordship would therefore suggest, for the consideration of Lord Knutsford, whether it might not be preferable to propose to the United States Government that the time limited for the prosecution of the appeals should be extended by consent

for such period as may allow of a settlement by diplomatic negotiation, without prejudice to the ultimate legal remedy by appeal, should such negotiation be unsuccessful.

As regards the sureties, Lord Salisbury does not think that reasonable objection can be taken to the stipulation that they should be citizens of the United States and resident therein, and therefore within the jurisdiction of the American Courts.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 117.

Sir L. West to the Marquis of Salisbury.—(Received April 16.)

WASHINGTON, *March 27, 1888.*

MY LORD: I have the honour to inclose to your Lordship herewith copies of a letter addressed to Senator Dolph, of Oregon, by Mr. James G. Swan, Assistant Collector of Port Townsend, Washington Territory, relative to fur-seals in the waters of Alaska and in the Behring's Sea.

The migration of the New England fishermen to the Pacific coast, and their determination to assert the right to fish or hunt in the American waters of Behring's Sea, outside of 3 nautical miles from any island or the mainland of Alaska, will have an important bearing on the jurisdiction claimed by the United States for the benefit of the Alaska Commercial Company.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 117.]

(50th Congress.—Senate Mis. Doc. No. 78.)

IN THE SENATE OF THE UNITED STATES.

MARCH 15, 1888.—Presented by Mr. Dolph, and ordered to lie on the table and be printed.

Letter of James G. Swan, Assistant Collector, Port Townsend, Washington Territory, relative to Fur Seals in the Waters of Alaska and in the Behring's Sea.

PORT TOWNSEND, WASHINGTON, *March 7, 1888.*

SENATOR: I have the honour to inform you of the arrival here of the first vessel of the Gloucester, Massachusetts, fishing fleet—the schooner "Mollie Adams,"
122 Captain Johnson, which arrived here on the 3rd instant. This vessel is owned by Captain Solomon Jacobs, of Gloucester, who has taken command of her, and she sails to-day on a sealing expedition from off the mouth of the Columbia, following the herd north. Seals are reported as being unusually numerous this season and are in myriads. California steamers report running through one herd which extended 100 miles, and the seals appeared to be as thick as they could swim. After the sealing season is over the schooner will engage in the halibut and cod fishery and send their catch in ice to the Eastern markets.

Another of Captain Jacobs' schooners, the "Webster," will be here in April, and several others will be here this season. Next year between fifty and sixty vessels are expected, and they will be followed by others, and within two years a colony of several hundred of these fishermen will be here to develop the wealth now dormant and hidden in our waters.

Since I returned from Queen Charlotte's Island, in 1883, I have persistently urged on Professor Baird the necessity of sending one of the United States Fish Commis-

sion steamers to the Pacific to develop our fisheries, and shortly before Professor Baird's lamented death he wrote me that the "Albatross" would be sent to our waters, and she is now on her way out.

These Gloucester fishermen will render valuable assistance to Captain Tanner. It is to the fishermen of Gloucester, Cape Cod, and the coast of Maine that the United States Fish Commission is largely indebted for much of the valuable information respecting the Atlantic fisheries, which has been published by that admirable Bureau of the Smithsonian Institution.

Hitherto no protection has been given our Pacific fishermen by our Government. The Treaty of 1818 does not allude to the Pacific coast, nor does the present Treaty, so far as I am informed, make any provision for or allusion to the fisheries of the North Pacific. British Columbia is, as it were, sandwiched between Washington and Alaska; our interests are identical, and at present the most harmonious and kindly feeling exists between the people of British Columbia and ourselves. Every steamer for Alaska which takes the inside passage passes through the waters of British Columbia, affording a means of delightful recreation to thousands of tourists. This kindly feeling should be encouraged, and particularly in reference to our fishermen who wish to fish the waters of the coast from the Columbia to Alaska.

But these New England fishermen ask more than to fish along the coast; they wish to explore the waters of Behring's Sea and the Arctic Ocean, and to be permitted to take any of the products of the ocean in American waters without the annoyance they have been subjected to for so many years on the Canadian coasts of the Atlantic.

Ever since the lease of the Pribylov Islands to the Alaska Commercial Company, that powerful monopoly has persistently deceived the Congress of the United States and the American people by arrogantly asserting that all the fin seals of the North Pacific Ocean congregate on the Islands of Saint Paul and St. George, and that the indiscriminate slaughter of those seals would soon exterminate the race. The latter part of this assertion is true, but the first, I assert, is a physical impossibility. The seals of the North Pacific, in countless myriads, could not, by any process of their own, find room on those two comparatively insignificant islands, and I am prepared to prove that the southern seals, from the Gulf of Tehuantepec and Gulf of California, which come north every season, differ from the seals of the Pribylov Islands, and never "haul out" on that group. The indiscriminate slaughter of fin seals in early days on the Island of Massafuero, on the coast of Chile, and on the San Benito Islands of Lower California, drove the seals away from those once famous rookeries, and they seem to have acquired new habits. A paid writer of the company, Henry W. Elliott, in an otherwise excellent monograph on the fin seal islands of Alaska, boldly asserts that the seals of the North Pacific all congregate on the Pribylov Islands. He further asserts that those seals have their pups on land, and that if a pup is thrown into the water it cannot swim, but will sink like a stone, and takes me to task for asserting that the pups of the seals taken at Cape Flattery can swim as soon as born and even when taken alive from the mother's womb.*

In 1883 I was instructed by Professor Baird to investigate the habits of the fin seals and to make a Report thereon, which Report may be found in the Bulletin of the United States Fish Commission (vol. iii, 1883, p. 201). In that Report I have shown by thirteen witnesses, some of them Government officials, that the fin seals of Cape Flattery do have their pups in the water, on the kelp and at other places not yet discovered, and that the pups swim as soon as born; this evidence as against
193 Mr. Elliott's unsupported, dogmatic assertion that the pups will sink like a stone. I believe that Mr. Elliott is correct so far as the seals of the Pribylov Islands are concerned, and I know that I am correct so far as regards the seals of Cape Flattery, and, believing that both of us are correct, it proves incontestably that the seals which come from the south to Cape Flattery differ in their habits from those of Behring's Sea.

These eastern fishermen, knowing the value of the rookeries, are desirous that the law protecting the seals on the Pribylov Islands, as well as the provisions of the lease to the Alaska Commercial Company, should be rigidly enforced. But they do not believe that the term "adjacent waters" named in that lease ever meant or was intended to mean all the waters of the North Pacific Ocean. They believe that they, as American citizens, have a right to fish or hunt in the American waters of Behring's Sea, outside of 3 nautical miles from any island or the mainland of Alaska. They believe that William H. Seward did not purchase Alaska for the Alaska Commercial Company, but for the whole nation. These fishermen from New England demand as a right that they be permitted to pursue their honourable business in the American waters of the North Pacific, Behring's Sea, and the Arctic without being treated as criminals and hunted down and seized and imprisoned by the piratical Revenue

*United States Commission of Fish and Fisheries, Special Bulletin 176, a Monograph of the Seal Islands of Alaska, by Henry W. Elliott, 1882, p. 166, last paragraph.

cutters of the United States, at the diction and for the sole benefit of the Alaska Commercial Company. These fishermen already here, and the colonies which will be here next year with their fleets of schooners, are of vastly more importance to the American nation than the monopoly of the Alaska Commercial Company. And they have requested me to address you, Senator, and other Senators, respectfully asking you to kindly look into this question, and have it ordered by the Treasury Department that American citizens can take any of the products of the ocean outside of 3 marine miles from any island in Behring's Sea or the coasts of the mainland of Alaska.

Hitherto the outrageous arrogance and assumption of the Alaska Commercial Company has been only met by feeble protests from merchants of San Francisco and a few Portland traders. But now a new order of things is about being inaugurated. An intelligent and valuable class of New England fishermen are coming here to reside among us and become citizens of Oregon, Washington, and Alaska. They know their rights as American citizens, and they are determined to have their rights.

It is time that the farce played by the Alaska Commercial Company was ended, and that the sorry sight of American Revenue cutters hunting down our own citizens for the benefit of that huge monopoly should for ever cease.

I have given this subject careful attention for many years, but have had no occasion to take any particular interest in it until now, and now is the time to speak and act. These determined, energetic fishermen of New England are here, and more coming. All they ask is their right as American citizens to hunt and fish in American waters outside 3 miles from land. Strictly enforce the law prohibiting the taking of seals on the Pribylov Islands; strictly enforce the law prohibiting the introduction of spirits or fire-arms among Indians; but give the fishermen the right to develop the wealth in our waters, encourage them to make new discoveries, aid them in every legal manner to pursue their avocations, and they will prove a new source of wealth to our Pacific States, and add to our population a new and a most desirable element.

I have had the honour, Senator, to address Senator Mitchell and Senator Stanford upon this important question, and if there are any points on which you would like further information, I shall esteem it an honour if you will address me, and I will give you all the information I possess. I want to see Behring's Sea and all American waters open to American fishermen, and I earnestly and respectfully solicit your kind consideration of the question.

I have, &c.

(Signed) JAMES G. SWAN.

The HON. JOSEPH N. DOLPH,
Senator in Congress from Oregon.

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194 **No. 118.**

Sir L. West to the Marquis of Salisbury.—(Received April 16.)

WASHINGTON, *March 31, 1888.*

MY LORD: I have the honour to acknowledge the receipt of your Lordship's despatch of the 17th instant, and to inclose herewith copy of a note which I addressed to the Secretary of State in the sense of that despatch, as well as copy of the reply which I have received thereto.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 118.]

Sir L. West to Mr. Bayard.

WASHINGTON, *March 26, 1888.*

SIR: With reference to the proposed concerted action by Great Britain, the United States, and other interested Powers, in order to preserve from extermination the fur seals which at certain seasons are found in Behring's Sea, I am requested by the Marquis of Salisbury to inform you that the Russian Ambassador in London has been communicated with on the subject, and that he has referred to his Government for instructions.

But in making this communication to you, I am instructed to state that this action on the part of Her Majesty's Government must not be taken as an admission of the rights of jurisdiction in Behring's Sea exercised there by the United States authorities during the fishing seasons of 1886-87 and 1887-88, nor as affecting the claims which Her Majesty's Government will have to present on account of the wrongful seizures which have taken place of British vessels engaged in the seal-fishing industry.

I have, &c. (Signed) L. S. SACKVILLE WEST.

[Inclosure 2 in No. 118.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, March 30, 1888.*

SIR: I have the honour to acknowledge the receipt of your note of the 26th instant, in which you inform the Department that the action of Her Majesty's Government in respect to the proposal of this Government for an arrangement to protect the fur-seal from extermination in Behring's Sea is not to be taken as an admission of the jurisdiction of the United States over Behring's Sea, nor as affecting the claims which Her Majesty's Government will have to present on account of the seizure of certain British vessels in those waters.

I have, &c. (Signed) T. F. BAYARD.

No. 119.

Sir L. West to the Marquis of Salisbury.—(Received April 16.)

WASHINGTON, *April 5, 1888.*

MY LORD: With reference to my despatch of the 19th March, I have the honour to inclose to your Lordship herewith copy of a Memo-
195 randum sent to me by the lawyer engaged in the case of certain seal-skins ordered to be sold at Sitka, from which your Lordship will perceive that the matter has been satisfactorily adjusted.

I have communicated this Memorandum to the Marquis of Lansdowne.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 119.]

Memorandum by Mr. Benjamin.

The District Judge for Alaska having refused to admit British Columbian claimants to the privileges of the Attorney-General's Order of last December, prescribing that condemned sealing-vessels and cargoes might be released to their late owners, pending appeal, upon supersedeas bonds, with sureties, residing in Alaska, California, Oregon, or Washington Territory (said District Judge contending that the Order related only to the cases of American claimants), I laid before the Attorney-General, on the 31st ultimo, the case of the British owner of 1,400 seal-skins, ordered to be sold under Condemnation Decree at Sitka on the 18th instant, said owner having tendered a valid appeal bond with sureties, residing at San Francisco.

To-day, during my attendance upon the Attorney-General, he sent a joint telegram to the District Judge and the District Attorney at Sitka, advising them that his Order of last December was intended to apply to all claimants, irrespective of nationality.

The telegram will go by mail from Port Townsend, and will reach Sitka before the day of sale in due course.

The Attorney-General expressed his dissatisfaction with the course of the officers at Sitka in putting so narrow a construction upon the original Order.

(Signed) CHARLES F. BENJAMIN,
Counsellor-at-Law.

WASHINGTON, *April 4, 1888.*

No. 120.

Sir L. West to the Marquis of Salisbury.—(Received April 16.)

WASHINGTON, *April 6, 1888.*

MY LORD: With reference to your Lordship's despatch of the 30th March, I have the honour to inclose herewith copy of a note which I addressed to Mr. Bayard, representing the importance of enabling Her Majesty's Government to contradict the report that orders had been issued by the United States Government for the capture of British ships fishing in Behring's Sea. I had previously received a communication in the above sense from the Marquis of Lansdowne, and at an interview which I had with the Secretary of State he stated to me that no such orders had been issued, which information I telegraphed to your Lordship on the 3rd instant.

I have since received a further telegram from the Marquis of Lansdowne, copy of which is inclosed, requesting to know whether his Government is to understand that sealers will not be molested except within the marine league from the shore. I accordingly again called on Mr. Bayard, and he repeated to me, in reply to my question in the above sense, that no orders had been issued for the capture of sealers in Behring's Sea. He presumed that the orders I alluded to as having been issued some years ago were instructions under Statute (see 1,956 Revised Statutes) for the regulation of the seal fishery in the waters of Alaska. Pending international negotiations on this subject, he did not think it was expedient to answer my question in so far as it related to the marine league limit, as these negotiations had for object the general protection and preservation of the seal in all waters. He did not wish to see another British or American sealer seized, and hoped that no such seizures would occur.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

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198 [Inclosure 1 in No. 120.]

Sir L. West to Mr. Bayard.

WASHINGTON, *April 2, 1888.*

SIR: I have the honour to inform you that the Marquis of Salisbury has received intimation from the Canadian Government to the effect that orders have been issued by the United States Government for the capture of British ships fishing in Behring's Sea, and that he has telegraphed to me to represent earnestly the extreme importance of enabling Her Majesty's Government to contradict this rumour.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure 2 in No. 120.—Telegraphic.]

The Marquis of Lansdowne to Sir L. West.

APRIL 5, 1888.

In reply to your telegram of the 3rd April, there is an impression here that orders were issued some years ago by United States Government to Collector at San Francisco for seizure of vessels found in Behring's Sea, and that these orders have never been withdrawn.

May we understand our sealers will not be molested except within the marine league from shore?

No. 121.

*The Marquis of Salisbury to Sir R. Morier.**

FOREIGN OFFICE, *April 16, 1888.*

SIR: The Russian Ambassador and the United States Chargé d'Affaires called upon me this afternoon to discuss the question of the seal fisheries in Behring's Sea, which had been brought into prominence by the recent action of the United States.

The United States Government had expressed a desire that some agreement should be arrived at between the three Governments for the purpose of prohibiting the slaughter of the seals during the time of breeding; and, at my request, M. de Staal had obtained instructions from his Government on that question.

At this preliminary discussion it was decided provisionally, in order to furnish a basis for negotiation, and without definitively pledging our Governments, that the space to be covered by the proposed Convention should be the sea between America and Russia north of the 47th degree of latitude; that the close time should extend from the 15th April to the 1st November; that during that time the slaughter of all seals should be forbidden; and vessels engaged in it should be liable to seizure by the cruizers of any of the three Powers, and should be taken to the port of their own nationality for condemnation; that the traffic in arms, alcohol, and powder should be prohibited in all the islands of those seas; and that, as soon as the three Powers had concluded a Convention, they should join in submitting it for the assent of the other Maritime Powers of the northern seas.

The United States Chargé d'Affaires was exceedingly earnest in pressing on us the importance of dispatch on account of the inconceivable slaughter that had been and was still going on in these seas. He stated that, in addition to the vast quantity brought to market, it was a common practice for those engaged in the trade to shoot all seals they might meet in the open sea, and that of these a great number sank, so that their skins could not be recovered.

I am, &c. (Signed) SALISBURY.

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197 No. 122.

The Marquis of Salisbury to Sir L. West.—(Substance telegraphed.)

FOREIGN OFFICE, *April 17, 1888.*

SIR: Her Majesty's Government have had under consideration the particulars received by them in regard to the claims of British sealing-vessels seized in Behring's Sea, and warned off by the United States authorities.

They consider that it would be difficult to arrive at a just estimate of the amount of the claims in question without an investigation by a Mixed Commission into the circumstances under which these claims have arisen, which require verification.

I have accordingly to request you to ascertain whether the United States Government would agree to the appointment of a Mixed Commission, whose functions should be restricted to inquiring whether any compensation is due, and, if so, how much in each case.

I am, &c. (Signed) SALISBURY.

* Also to Sir L. West.

No. 123.

*Foreign Office to Colonial Office.**

FOREIGN OFFICE, *April 20, 1888.*

SIR: I am directed by the Marquis of Salisbury to transmit to you a copy of a despatch which his Lordship has addressed to Her Majesty's Ambassador at St. Petersburgh and Her Majesty's Minister at Washington,† recording a conversation he has had with the Russian Ambassador and the United States Chargé d'Affaires at this Court, on the subject of the measures which might be adopted to check the indiscriminate slaughter of seals in Behring's Sea.

I am to request that, in laying the inclosed despatch before Her Majesty's Secretary of State for the Colonies, you will move him to favour Lord Salisbury with any observations he may have to offer upon the proposals discussed therein.

I am, &c. (Signed) JULIAN PAUNCEFOTE.

No. 124.

Colonial Office to Foreign Office.—(Received April 21.)

DOWNING STREET, *April 20, 1888.*

SIR: With reference to your letter of the 14th instant, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, for any observations which he may have to offer, a copy of a telegram from the Governor-General of Canada respecting the cases of the British sealers captured last year.

I am, &c. (Signed) JOHN BRAMSTON.

[Inclosure in No. 124.—Telegraphic.]

The Marquis of Lansdowne to Lord Knutsford.

APRIL 18, 1888.

It seems very desirable time for appeal be extended as long as possible. United States Government should, in the interim, release vessels and skins on security abide by conditions of negotiations. Owners would desire to appeal as last resort should negotiations fail.

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198 No. 125.

Sir L. West to the Marquis of Salisbury.—(Received April 23.)

WASHINGTON, *April 11, 1888.*

MY LORD: With reference to my despatch of the 6th instant, I have the honour to inclose to your Lordship herewith copy of a private note which I have received from Mr. Bayard, repeating what he had told me on the 6th instant, that no orders had been issued this year for the seizure of British sealing-vessels in Behring's Sea.

I have forwarded copy of Mr. Bayard's note to the Marquis of Lansdowne.

I have, &c. (Signed) L. S. SACKVILLE WEST.

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*Also to Board of Trade and Admiralty. † No. 1

[Inclosure in No. 125.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, April 10, 1888.*

DEAR SIR LIONEL: Referring to our conversation held on the 6th instant in a personal interview in relation to the Treasury orders for the seizure of British sealing-vessels in Behring's Sea by United States Revenue cutters, I now repeat, at your request, what I then told you in reply to the memorandum of inquiry by Lord Salisbury, that no orders on the subject referred to had been issued this year by the Treasury Department.

Very truly yours,

(Signed) T. F. BAYARD.

No. 126.

Colonial Office to Foreign Office.—(Received April 24.)

DOWNING STREET, *April 24, 1888.*

SIR: With reference to the previous correspondence relating to the seizure of British fishing-vessels in Behring's Sea by United States cruizers, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a confidential despatch received from the Governor-General of Canada, inclosing copies of telegrams which have passed between his Lordship and the Lieutenant-Governor of British Columbia respecting the arming of sealing-vessels to resist capture by the United States cruizers.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 126.]

The Marquis of Lansdowne to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, March 29, 1888.*

MY LORD: I have the honour to transmit, for your Lordship's information, copies of telegrams which I have received from the Lieutenant-Governor of British Columbia, dated the 27th and 29th instant, stating that the owners of sealing-vessels now on the point of departure for the Behring's Sea are arming their vessels and crews to resist capture by United States cruisers. I also inclose a copy of my reply to the former of these telegrams.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 2 in No. 126.—Telegraphic.]

Lieutenant-Governor Nelson to the Marquis of Lansdowne.

VICTORIA, BRITISH COLUMBIA, *March 26, 1888.*

My Government has received information that sealers, on point of departure for Behring's Sea, are arming their vessels and crews to resist capture.

199 [Inclosure 3 in No. 126.—Telegraphic.]

The Marquis of Lansdowne to Licutenant-Governor Nelson.

OTTAWA, *March 27, 1888.*

In reply to your telegram of the 26th, public notice should be issued by your Government, cautioning persons going on sealing expeditions to refrain from assertion of their rights by force, and from taking on board arms and ammunition in excess of their usual requirements. The whole matter forms the subject of diplomatic negotiations now in progress. Any intemperate action in the meanwhile would be most detrimental to British Columbian interests, and might lead to serious complications, and be followed by grave consequences.

[Inclosure 4 in No. 126.—Telegraphic.]

Lieutenant-Governor Nelson to the Marquis of Lansdowne.

VICTORIA, BRITISH COLUMBIA, *March 29, 1888.*

It is reported that, with a view to protecting their vessels and property from lawless designs of United States Government, some persons, fitting out here for sealing, are arming their vessels and crews, and unless protection is afforded by Imperial Government, serious loss of property, and possibly human life, may result. Dominion Government are therefore urged to take such steps for the protection of British interests in Behring's Sea as may be deemed advisable.

No. 127.

Admiralty to Foreign Office.—(Received April 26.)

ADMIRALTY, *April 25, 1888.*

SIR: My Lords Commissioners of the Admiralty have had under their consideration your letter of the 20th instant, inclosing a copy of a despatch, dated the 16th instant, which has been addressed by Lord Salisbury to Her Majesty's Ambassador at St. Petersburgh and Her Majesty's Minister at Washington in regard to the adoption of measures to check the indiscriminate slaughter of seals in Behring's Sea.

2. My Lords request that you will state to Lord Salisbury that their Lordships fully concur in the views set forth in the inclosure to your letter now under reply.

I am, &c.

(Signed) EVAN MACGREGOR.

No. 128.

Colonial Office to Foreign Office.—(Received April 26.)

DOWNING STREET, *April 25, 1888.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 20th instant, transmitting a copy of a despatch addressed to Her Majesty's Ambassador at St. Petersburgh respecting the proposed establishment of a close time for seals in Behring's Sea.*

In reply, I am to inclose, for the information of the Marquis of Salisbury, a copy of the extender of a telegram which was sent to the

*No. 121.

Governor-General of Canada, on his Lordship's suggestion, inquiring whether the Dominion Government were aware of any objection to the proposed arrangement.

I am also to inclose a copy of a despatch from Lord Lansdowne, in the two concluding paragraphs of which he points out that the probable effect of the proposed close time on the operations of the Canadian sealers would be to exclude them completely from the rights which they have until lately enjoyed without question or molestation.

In these circumstances, it is probable that the United States
200 proposals may not be accepted by Canada without reserve, and Lord Knutsford would suggest that, pending the receipt of the observations of the Dominion Government in response to the invitation contained in his despatch of the 8th March, referred to by Lord Lansdowne, no final action should be taken in the matter.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 128.]

Lord Knutsford to the Marquis of Lansdowne.

DOWNING STREET, *April 21, 1888.*

MY LORD: I have the honour to acquaint you that I have this day telegraphed to you, with reference to your despatch of the 9th instant, that negotiations are proceeding between Russia, the United States, and Great Britian with regard to the establishment of a close time, during which it would be unlawful to kill seals at sea, in any manner, to the north of the 47th parallel of latitude between the coasts of Russia and America, and inquired whether your Government was aware of any objection to the proposed arrangement.

I added that, of course, as regards Canadian waters, Canadian legislation would be necessary.

I have, &c.

(Signed) KNUTSFORD.

[Inclosure 2 in No. 128.—Extract.]

The Marquis of Lansdowne to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, April 9, 1888.*

In reference to my despatch of the 29th March, I have the honour to inclose herewith copy of a telegram, dated the 5th instant, from the Attorney-General of British Columbia to Sir John Macdonald, acquainting him that my telegram, of which a copy was sent to you in the above despatch, had been published in the provincial press as a warning to sealing-vessels, and that there was reason to believe that these vessels had, in consequence of the intimation thus given, ceased to arm themselves for the purpose of resisting the cruizers of the United States.

I have forwarded to you by this mail copies of a telegram received from Sir L. West in reference to the probable action of these cruizers during the present season, and of a telegram addressed to him by me in reply.

I observe that the information obtained by Sir Lionel West from Mr. Bayard, which is the same as that communicated to me in your telegraphic despatch of the 6th instant, is merely to the effect that no orders have been issued by the United States for the capture of British ships fishing in the Behring's Sea. I need scarcely point out that this is not equivalent to an assurance that such vessels will not be molested except when found within the 3-mile limit, and that we are not informed whether any orders which have been already issued in this connection are or are not still in force.

I need scarcely point out that the close time for seals, referred to in your telegram, is created under a Statute of the United States, which is not obligatory except upon the subjects of that Power. The proposal contained in the inclosure to your Confidential despatch of the 8th March, 1888, for the adoption of a similar close season by British fishermen is at present receiving the careful consideration of my Government.

Such a close time could obviously not be imposed upon our fishermen without notice or without a fuller discussion than it has yet undergone. You are aware that, during the close time enforced by the United States Statute, the seals, although protected from slaughter by the use of firearms, may be killed in great numbers on their breeding-grounds by the persons who enjoy the monopoly of the trade under Concessions from the United States Government. The rest of the year these animals are, according to Mr. Bayard's statement in his despatch of the 7th February, 1888, "supposed to spend in the open sea south of the Aleutian Islands," where they are probably widely scattered and difficult to find. It would appear to follow that, if concurrent regulations based upon the American Law were to be adopted by Great Britain and the United States, the privileges enjoyed by the citizens of the latter Power would
201 be little if at all curtailed, while British fishermen would find themselves completely excluded from the rights which until lately they have enjoyed without question or molestation.

In making this observation I do not desire to intimate that my Government would be averse to entering into a reasonable agreement for protecting the fur-bearing animals of the Pacific coast from extermination, but merely that a one-sided restriction such as that which appeared to be suggested in your telegram could not be suddenly and arbitrarily enforced by my Government upon the fishermen or this country.

I have, &c.

(Signed) LANSDOWNE.

[Inclosure 3 in No. 128.—Telegraphic.]

Mr. J. Robson to Sir J. Macdonald.

VICTORIA, *April 5, 1888.*

As a warning, Lord Lansdowne's telegram to Lieutenant-Governor was published on 29th ultimo, and, I believe, arming has been discontinued, but to avert serious trouble assurance of protection continues [?] essential.

No. 129.

Colonial Office to Foreign Office.—Received April 28.

DOWNING STREET, *April 27, 1888.*

SIR: With reference to the letter from this Department of the 25th instant, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a telegram from the Governor-General of Canada, explaining the views of the Dominion Government with regard to the establishment of a close time for seals in Behring's Sea.

Lord Knutsford would be glad to know what reply, if any, Lord Salisbury thinks should be sent.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 129.—Telegraphic.]

The Marquis of Lansdowne to Lord Knutsford.

(Received at the Colonial Office, April 25, 1888, 10.10 P. M.)

If proved to be necessary, Canadian Government will be ready to join other Governments in adopting steps to prevent exterminationof fur-seals in Northern Pacific Ocean, but, before final agreement, desires full information and opportunity for considering operation of proposed close time.

Establishment of close time at sea only would give virtual monopoly of seal fisheries to Russia and United States; the latter Power owns the most important breeding places, in which close time would not operate.

Rights should be reserved for Canada of terminating arrangement after sufficient notice, not exceeding two years.

No. 130.

The Marquis of Salisbury to Sir L. West.—(Substance telegraphed.)

FOREIGN OFFICE, *April 29, 1888.*

SIR: With reference to Lord Lansdowne's despatch of the 21st March,* respecting the Behring's Sea question, a copy of which was forwarded to you by his Excellency, I have to request that you will propose to the United States Government that the limit of time fixed for the prosecution of the appeals in regard to the seizures of British
202 sealing-vessels should be extended by consent for such a period as may allow of the claims in question being settled by diplomatic negotiation without prejudice to the ultimate legal remedy by appeal if such negotiation should not be successful. You should also propose that the vessels and skins should be in the meanwhile at once released on security.

The stipulation made by the American Court that the sureties should be American citizens resident in the States is objected to by some of the Canadian defendants, but this condition appears to me to be reasonable.

I am, &c.

(Signed) SALISBURY.

No. 131.

Sir L. West to the Marquis of Salisbury.—(Received April 30.)

WASHINGTON, *April 19, 1888.*

MY LORD: Upon the receipt of your Lordship's telegram of the 17th instant I addressed a *note verbale* to Mr. Bayard, copy of which is inclosed, in order to ascertain whether the United States Government would agree to a Commission to inquire into the claims of British sealing-vessels seized and warned off by the United States authorities in Behring's Sea. I handed this note myself to Mr. Bayard, who read it, and remarked that from what had passed in the Fisheries Conference he had been led to believe that these claims would be held over. He would, however, answer my communication.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 131.]

Note Verbale.

Her Majesty's Government have just received the particulars of the claims for compensation on account of British sealers seized and warned off by the United States authorities in Behring's Sea. A just assessment of these claims appears to them difficult, without investigation and verification, and they therefore wish to ascertain whether the United States Government would be disposed to agree to a Commission which should be restricted to inquiring in each case whether compensation is due, and the amount of such compensation.

WASHINGTON, *April 18, 1888.*

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*See No. 114.

No. 132.

Board of Trade to Foreign Office.—(Received May 5.)

BOARD OF TRADE, *London, May 4, 1888.*

SIR: I am directed by the Board of Trade to acknowledge the receipt of your letter of the 20th ultimo, in which you transmit copy of a despatch addressed by the Marquis of Salisbury to Her Majesty's Ambassador at St. Petersburgh and Her Majesty's Minister at Washington, recording a conversation which his Lordship has had with the Russian Ambassador and the United States Chargé d'Affaires at this Court on the subject of adopting measures with a view to check the indiscriminate slaughter of seals in Behring's Sea.

With reference to the concluding paragraph of your letter, I am to request that you will state to Lord Salisbury that the Board of Trade have no information to enable them to speak with confidence on the subject, but that, so far as they are in a position to judge, they would be disposed to regard favourably the proposals indicated by you as a basis for negotiation, and which contemplate restrictions partly in analogy with those already constituting à close time for the seal fishery of the Greenland Sea, where, however, the valuable fur-seals for which the Behring's Sea is noted are not found.

At the same time, it may be supposed that the Western British
203 Colonies in North America would be interested in the matter, and they might be prepared to criticize the proposals in question for reasons with which this Department is not acquainted.

I have, &c.

(Signed) HENRY G. CALCRAFT.

No. 133.

Sir L. West to the Marquis of Salisbury.—(Received May 14.)

WASHINGTON, *April 22, 1888.*

MY LORD: With reference to my despatch of the 19th instant, I have the honour to inclose to your Lordship herewith a copy of a *note verbale* which I have received in reply to the one which I addressed to Mr. Bayard, copy of which was inclosed in that despatch, stating that, in the cases of British vessels seized in Behring's Sea, it is preferable to await the judgment of the Appellate Court in the premises.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 133.]

Note Verbale.

Responding to the *note verbale* of Sir L. West, dated the 18th instant, it is suggested, on behalf of the United States, that, as the cases of seizure of British sealing-vessels in Behring's Sea therein referred to are now in Court pending an appeal from a judicial decision, it is preferable to await the judgment of the Appellate Court in the premises.

WASHINGTON, *April 21, 1888.*

No. 134.

Sir L. West to the Marquis of Salisbury.—(Received May 14.)

WASHINGTON, *May 1, 1888.*

MY LORD: I have the honour to acknowledge the receipt of your Lordship's telegram of the 29th ultimo, and to inclose to your Lordship herewith a copy of a note which I addressed to the Secretary of State, in the sense conveyed therein, on the subject of the cases of British vessels seized in Behring's Sea, upon which appeals are pending.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 134.]

Sir L. West to Mr. Bayard.

WASHINGTON, *April 30, 1888.*

SIR: With reference to pending legal proceedings in the cases of British vessels seized by the United States authorities in Behring's Sea, I have the honour to inform you that I am instructed by the Marquis of Salisbury to propose to the United States Government that the time limited for the prosecution of the appeals in these cases should, by consent, be extended for such a period as may permit of a settlement of the claims in question by diplomatic negotiation, without prejudice to the ultimate legal remedy by appeal, should such negotiation be unsuccessful, and that the vessels and skins should be at once released on security.

It is understood, indeed, that permission has actually been given to the owners of these vessels to bond them pending appeal, provided the sureties are citizens of the United States and resident therein, and, under these circumstances, the proposal for an extension of the time limited for such appeal is submitted in view of any diplomatic negotiations which may ensue, having for object the satisfactory adjustment of all matters connected with these cases.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

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204 No. 135.

Colonial Office to Foreign Office.—(Received May 14.)

DOWNING STREET, *May 12, 1888.*

SIR: I am directed by Lord Knutsford to transmit to you a copy of the telegram which was addressed to the Governor-General of Canada upon the question of the proposed close time for seals in Behring's Sea, together with a copy of the reply which has now been received from the Governor-General, and which I am to request may be laid before the Marquis of Salisbury.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure 1 in No. 135.—Telegraphic.]

Lord Knutsford to the Marquis of Lansdowne.

DOWNING STREET, *May 9, 1888.*

Behring's Sea close time for seals.

With reference to your telegram 25th April, would objections of your Government *be met if proposal* to take 50th degree north latitude be reverted to instead of 47th?

[Inclosure 2 in No. 135.—Telegraphic.]

The Marquis of Lansdowne to Lord Knutsford.

MAY 11, 1888.

I have received your cablegram of the 9th instant. The objections of the Canadian Government would not be removed by the substitution of the 50th instead of the 47th parallel. A Report on close time question is in course of preparation. My Government hopes that no decision will be taken until you are in possession of it.

No. 136.

Sir L. West to the Marquis of Salisbury.—(Received June 11.)

[Extract.]

WASHINGTON, *May 30, 1888.*

With reference to my despatch of the 1st instant, I have the honour to inform your Lordship that at Mr. Bayard's request I called upon him, and he then remarked to me, with reference to my note of the 30th April, that he was not aware that there were any vessels or skins held at the present moment.

With regard to extending the time limited for appeal, he said that he had consulted with the Attorney-General, and that he had found that it was not in the power of the Executive to intervene in the matter. Having given me this explanation, he said he would reply to my note in this sense.

P. S.—I subjoin copy of the reply to my note of the 30th April, which I have just received.

[Inclosure in No. 136.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, May 28, 1888.*

SIR: I have the honour to acknowledge your notes of the 30th ultimo and the 25th instant, both relating to the appeals taken in the Judicial Courts in Alaska from decrees in cases of British vessels seized by the United States Revenue officials in Behring's Sea, under charges of having violated the laws of the United States regulating the killing of fur-seals.

I must excuse myself for the delay in making reply to your note of the 30th April, which was caused by my desire to obtain from you a verbal explanation of what appeared to me an inadvertent expression contained therein, from which it appeared that the "skippers" were held under arrest as well as the sealing-vessels.

In my personal interview with you to-day it became mutually understood
205 that there has been and is no such personal detention in any of the cases, but the proceedings have all been *in rem* against the vessels so employed and their outfits.

The suggestion of the Marquis of Salisbury that the time limited for prosecution of the appeals (entered already or proposed to be entered) in the cases referred to, in order to give an opportunity for a diplomatic settlement [*sic*], will meet with favourable consideration within the limits of statutory provision in relation to the docketing and prosecution of appeals.

While it is not within the power of the Executive Branch to alter or extend the statutory limitation in respect of the time of entering such appeals, yet as far as agreement of both parties may prevail in procuring postponements of the arguments and pleadings, after the appeal has been duly taken, I apprehend that there will be every disposition on the part of the prosecution to give time for diplomatic arrangement.

Accept, &c.

(Signed) T. F. BAYARD.

No. 137.

Extract from Russian Memorandum regarding Hunting of Seals.—(Communicated by M. de Staal to the Marquis of Salisbury, July 25, 1888.)

Les endroits où se pratique la chasse aux otaries peuvent se diviser en deux groupes distincts:

	Nombre des Otaries tuées en 1885.
Le premier groupe comprendrait:	
Les Iles Pribyloff dans la Mer de Behring	100,000
Les Iles du Commandeur (les Iles de Behring et de Cuivre)	45,000
L'Ile des Phoques (Mer Okhotsk)	4,000
	149,000
Le deuxième groupe:	
La mer près des côtes de Victoria	20,000
Lobas	15,000
Les îles près du Cap Horn et la Mer Polaire du Sud	10,000
Le Cap de Bonne-Espérance	5,000
Les Iles Japonaises	7,000
	57,000

Dans le premier groupe le nombre des otaries tuées tous les ans est de beaucoup plus important que dans le deuxième groupe. La chasse s'y pratique sur des bases rationnelles, c'est-à-dire qu'on n'y tue que les otaries qui répondent aux exigences du commerce: d'une certaine taille et du sexe mâle et à l'époque de l'année où la fourrure à le plus de valeur commerciale. En outre, la chasse s'y règle de façon que le nombre des otaries qui fréquentent ces îles, loin de diminuer, augmente tous les ans.

Dans le deuxième groupe, la chasse a lieu sans aucun système; on y tue les otaries mâles et femelles de tout âge sans tenir compte des époques de l'année. Ce mode d'extermination et le manque de lois protectrices font craindre la disparition complète des otaries de ces parages. Comme preuve on cite des endroits appartenant à ce deuxième groupe où jadis on trouvait des millions de ces phocacés et où maintenant on en tue à peine quelques milliers.

La période qui suivit l'expiration de la Concession accordée à la Compagnie Russo-Américaine pour l'exploitation de la chasse sur les Iles Pribyloff et du Commandeur a clairement démontré tout le mal qu'une chasse libre pourrait faire au développement et à la multiplication des otaries. Après l'expiration de cette Concession les îles devinrent la proie du premier venu et les chiffres qui suivent démontrent la progression énorme qu'a subi le nombre des otaries exterminées pendant ces deux années:

En 1867, le nombre des otaries tuées sur les Isles Pribyloff était de 40,000; en 1868, de 242,000; et en 1869, de 87,000.

Sur les Iles du Commandeur on avait tué l'année 1867, 4,000 otaries; l'année 1868, 12,000; l'année 1869, 21,000; et l'année 1870, 27,000.

206 Ce n'est que l'éloignement de ces îles des contrées habitées et le nombre minime de la population locale qui a empêché la destruction complète de ces phocacés.

Pour mettre fin à ces abus, le Gouvernement des États-Unis d'Amérique concéda en 1870 à la Compagnie de Commerce d'Alaska

le droit d'exploiter la chasse des otaries sur les Iles Pribyloff pendant vingt ans.

La même Compagnie, mais sous un autre nom, obtint une autorisation analogue du Gouvernement Russe pour la chasse des otaries sur les Isles du Commandeur et des Phoques, pour la même période de vingt ans, à partir du 18 Février, 1871.

Ainsi, nous voyons qu'un monopole privé a été concédé sur les îles fréquentées par les otaries trois ans à peine après l'expiration de celui de la Compagnie Russo-Américaine.

Ce monopole a été reconnu nécessaire pour les deux Gouvernements à la suite des conclusions des Commissions Russe et Américaine, instituées dans le but d'étudier la question de la chasse aux otaries et le moyen de préserver ces animaux d'une destruction complète.

D'après le Contrat par le Gouvernement Russe, le nombre des otaries que la Compagnie a le droit de tuer est réglé chaque année par les autorités Russes locales. La chasse ne peut être pratiqué que par les indigènes, excepté sur l'Ile des Phoques, où la Compagnie peut employer ses propres chasseurs, l'île n'étant pas habitée.

En échange de chaque peau la Compagnie doit payer aux indigènes un certain prix prévu par le Contrat. L'époque de la chasse est strictement limitée.

Ce qui fait le plus de tort au développement du nombre des otaries c'est la chasse illicite qui se pratique tant en pleine mer que sur les Iles Japonaises et quelquefois sur l'Ile des Phoques après le départ du bâtiment de la Compagnie, ce qui arrive généralement vers la mi-Octobre. D'après les Rapports des Douanes Japonaises il a été importé au Japon, pendant l'année 1884, 3,400 peaux d'otaries résultant de ce genre de braconnage; ce qui ferait 50 pour cent sur toutes les fourrures d'otaries exportées du Japon.

Jusqu'à 1862 il n'existait pas dans ce pays de loi prohibant la chasse des otaries. En 1862 une Loi défendant cette chasse a été promulguée sans effet, les îles n'étant pas suffisamment gardées contre l'invasion des braconniers.

En automne les otaries quittent la terre ferme et se dirigent au sud des Iles Aléoutes, où elles séjournent le reste de l'année en pleine mer. C'est alors qu'elles sont exposées aux attaques des navires armés en chasse qui les détruisent par tous les moyens: armes à feu, filets, harpons, &c., sans distinction entre les mâles et les femelles pleines. Il n'y a qu'un tiers seulement des animaux tués de la sorte qui est utilisé, le reste se perd sans le moindre profit. C'est à ce genre de procédé qu'on attribue la disparition à peu près complète des otaires sur les côtes du Chili et de l'Afrique Méridionale, ainsi que sur les Iles de Falkland.

On a peur que le même sort ne soit réservé aux îles de la Mer de Behring, à moins que des mesures efficaces ne soient adoptées à bref délai pour protéger les otaries.

[Translation.]

The places where fur-seal hunting takes place can be divided into two distinct groups:

	Number of Fur-Seals killed in 1885.
The first group would include:	
The Pribyloff Islands in Behring's Sea	100,000
The Commander Islands (Behring and Copper Islands)	45,000
The Seal Islands (Sea of Okhotsk)	4,000
	149,000
The second group:	
The sea adjoining the coasts of Victoria	20,000
Lobas	15,000
The islands near Cape Horn and the South Polar Sea	10,000
The Cape of Good Hope	5,000
The Japanese Islands	7,000
	57,000

207 In the first group the number of fur-seals killed annually is much larger than in the second group.

Hunting is conducted on rational bases, *i. e.*, that only such fur-seals are killed as are useful for commercial purposes, seals of a certain size, of the male sex, and at a time of year when the fur has the most commercial value. In addition, the hunting is regulated in such a way that the number of fur-seals which frequent the islands, far from diminishing, increases every year.

In the second group hunting is carried on under no system. Male and female fur-seals of every age are killed, without regard to the season of the year. In consequence of this destructive method, and the absence of protective laws, the complete disappearance of the fur-seals from these shores is to be apprehended. As a proof, it is stated that millions of fur-seals were found formerly in places in the second group where but a few thousands are killed now.

The period which followed the expiration of the Concession accorded to the Russo-American Company for hunting on the Pribyloff and Commander Islands clearly showed the injurious effect of unrestricted hunting on the development and multiplication of fur-seals. After the expiration of this Concession the islands became a prey to the first comer, and the following figures show the enormous increase in the number of fur-seals exterminated during these two years:

In 1867 the number of fur-seals killed on the Pribyloff Islands was 40,000; in 1868, 242,000; and in 1869, 87,000.

On the Commander Islands 4,000 fur-seals were killed in 1867; 12,000 in 1868; 21,000 in 1869; and 27,000 in 1870.

The complete extermination of the seal species was only prevented by the distance of these islands from inhabited countries, and the limited numbers of the local population.

To put an end to these abuses the United States Government conceded, in 1870, to the Commercial Company of Alaska the right to fur-seal hunting on the Pribyloff Islands for twenty years.

The same Company, under a different name, obtained a similar authorization from the Russian Government to hunt fur-seals on the Commander and Seal Islands for the same period of twenty years from the 18th February, 1871.

It is thus seen that a private monopoly was conceded on the islands frequented by the fur-seals hardly three years after the expiration of that of the Russo-American Company.

This monopoly was recognized to be necessary by the two Governments in consequence of the conclusions of the Russian and American Commissions which were appointed for the purpose of examining the question of fur-seal hunting and the means of preserving these animals from complete destruction.

According to the terms of the Russian Contract, the number of seals which the Company has the right of killing is regulated every year by the local Russian authorities. Hunting can only be carried on by the inhabitants, except on Seal Island, where the Company can employ its own hunters, the island being uninhabited.

In exchange for each skin the Company must pay the natives a certain price as provided for in the Contract. The season of hunting is strictly limited.

What most hinders the increase of the fur-seals is the illicit hunting which takes place in the open sea, as well as on the Japanese Islands and sometimes on Seal Island after the departure of the Company's ship, which takes place generally about the middle of October. According to the Japanese Customs Reports, 3,400 fur-seal skins, which represent the produce of this kind of poaching, were imported into Japan in 1884, which amounts to 50 per cent. of all the seal-furs exported from Japan.

Till 1862 there was no law in this country prohibiting fur-seal hunting. In 1862 a Law was passed forbidding it, but without effect, as the islands were not sufficiently defended against the inroads of poachers.

In the autumn the fur-seals leave the land and make for the south of the Aleutian Islands, where they stay for the rest of the year in the open sea. It is then that they are exposed to the attacks of ships equipped for the hunt which destroy them by every means, fire-arms, nets, harpoons, &c., without distinguishing males from females with young. Only a third of the animals killed in this way are utilized; the rest are lost without any profit. It is to these proceedings that the almost complete disappearance of fur-seals from the coasts of Chile and South Africa, as well as from the Falkland Islands, is to be attributed.

It is to be feared that the same fate is reserved for the islands of the Behring's Sea unless efficacious measures are shortly adopted to protect the fur-seals.

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208 No. 138.

Colonial Office to Foreign Office.—(Received July 26.)

DOWNING STREET, *July 25, 1888.*

SIR: With reference to previous correspondence respecting the seizure of British sealing-vessels in the Behring's Sea, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, with its inclosures, relating to the circumstances in which the schooner "W. P. Sayward" was released under bond at Sitka.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 138.]

Lord Stanley of Preston to Lord Knutsford.

CASCAPEDIA RIVER, *New Richmond, June 25, 1888.*

MY LORD: With reference to previous correspondence upon the subject, I have the honour to transmit to your Lordship a copy of an approved Minute of the Privy Council of Canada submitting a copy of a letter from the attorney of Captain J. D. Warren with reference to the circumstances under which the seized sealing-schooner 'W. P. Sayward" was released under bond at Sitka.

I have, &c. (Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 138.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 21st June, 1888.

On a Memorandum dated the 9th June, 1888, from the Minister of Marine and Fisheries, submitting the accompanying letter from the attorney of Mr. J. D. Warren with reference to the circumstances under which the seized sealing-schooner "W. P. Sayward" was released under bond at Sitka, and recommending that the same be forwarded to the Principal Secretary of State for the Colonies for the information of Her Majesty's Government.

The Committee advise that your Excellency be moved to forward a copy hereof to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 138.]

Mr. Belyea to Mr. Tilton.

OTTAWA, ONTARIO, *May 23, 1888.*

DEAR SIR: I am in receipt of a letter from Captain J. D. Warren, of Victoria, British Columbia, under date the 15th instant, in which he informs me of the circumstances under which the seized sealing-schooner "W. P. Sayward" was released under bond. He had gone to Sitka to secure, if possible, the release of all the schooners seized in 1887, viz.: the "Grace," "Dolphin," "Anna Beck," "W. P. Sayward," and "Ada." The bond on release was conditioned on prosecuting an appeal from the Alaska District Court to the Supreme Court of the United States. The formal motion thus became one "for leave to perfect an appeal," and such motion for each of the vessels was made on the 14th April last before Judge Dawson at Sitka, and in every case refused, on the grounds that the time for allowing an appeal had expired. Captain Warren's counsel then applied for a record of the order refusing leave to appeal. This was on Saturday.

On Monday following, the 16th April, without any application therefor by the defendant or any one on his behalf, Judge Dawson offered to rescind the order of Saturday in the case of the "W. P. Sayward," and release her to her owners.
209 She was then lying at Puget's Sound, under an order for sale on that day, the offer was accepted (contrary, as Captain Warren says, to the expectations of the United States authorities at Sitka), and the order of the previous Saturday rescinded and leave granted to appeal.

I am not informed as to the amount of the bond.

The United States Marshal at Sitka has been ordered to take remaining schooners, viz., the "Grace," "Dolphin," "Anna Beck," and "Ada," to Puget's Sound for immediate sale.

The schooners "Thornton," "Onward," and "Carolena," seized in 1886 and left at Ounalaska, have been, as you are aware, offered to the owners as they now are. All three are high up on the beach and practically worthless. The United States authorities sold everything in and on these vessels that would bring a dollar, and then attempted to contract the taking of the hulls to San Francisco to be there sold.

Finding this would cost more than the damaged hulls would sell for, they offered to give the vessels up to their owners, and had an order to that effect issued.

Captain Warren says it is out of the question to go to Ounalaska for these vessels.

I may add that the "Sayward" is now in possession of her owners.

Very faithfully, &c.

(Signed) A. L. BELYEA,
Attorney for J. D. Warren.

No. 139.

Mr. Phelps to the Marquis of Salisbury.—(Received July 30.)

LEGATION OF THE UNITED STATES,
London, July 28, 1888.

MY LORD: I beg to recall your Lordship's attention to the subject of the proposed Convention between the Governments of the United States, Great Britain, and Russia for the protection of the seal fisheries in Behring's Sea. A considerable time has now elapsed since the last conversation I had the honour to have with your Lordship in regard to it, when it was mutually believed that an early agreement might be arrived at.

I am sure your Lordship will concur with me in conceiving it to be for the interest of all parties that a conclusion should be reached as soon as possible. And my Government instructs me respectfully to urge upon Her Majesty's Government the propriety, under existing circumstances, of immediate action.

I understand the Russian Government to be prepared to concur in the proposed Convention as soon as the other Governments concerned are ready to assent to it.

I have, &c.

(Signed) E. J. PHELPS.

No. 140.

Colonial Office to Foreign Office.—(Received August 1.)

DOWNING STREET, *August 1, 1888.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a telegram received from the Governor-General of Canada respecting the proposed sale by the United States authorities of the sealing-vessels "Anna Beck," "Dolphin," "Grace," and "Ada," seized last year in Behring's Sea.

Lord Salisbury will observe that the Government of Canada urge that the United States Government may be requested by Her Majesty's Government to postpone the sale of the condemned vessels pending the settlement of the question as to the legality of their seizure.

Lord Knutsford trusts that Lord Salisbury will, as soon as practicable, make such communication as may be proper to the United States Government with a view to give effect to the wishes of the Dominion Government.

It will be seen that the matter is urgent.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 140.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

JULY 30, 1888.

The sealing-schooners "Anna Beck," "Dolphin," "Grace," and "Ada," which were seized in 1887 in the Behring's Sea, are now being removed to Port Townsend, Puget Sound, from Sitka, in order to be sold by the United States Marshal of Alaska.

The Judge of the District Court of Alaska has declined to permit the owners to bond the vessels, giving as a reason that their application is too late. My Ministers recommend that the Imperial Government be moved to ask for the interposition of the United States Government for a postponement of the sale of the condemned vessels pending the settlement of the question concerning the legality of their seizure. Pray obtain this if possible. On account of time the question is urgent.

No. 141.

The Marquis of Salisbury to Sir L. West.—(Substance telegraphed.)

FOREIGN OFFICE, *August 2, 1888.*

SIR: The Governor-General of Canada has informed the Secretary of State for the Colonies, by telegraph, that the sealing-vessels "Anna Beck," "Dolphin," "Grace," and "Ada," which were seized last year in Behring's Sea by the United States authorities, are now being taken to Port Townsend for sale by the United States Marshal of Alaska, and that the Judge of the Alaska District Court has refused to allow the owners to bond their vessels, giving as his reason that the application for permission to do so was made too late.

I have to request you to ask the United States Government to postpone the sale of these vessels until the question as to the legality of their seizure has been settled.

I am, &c.

(Signed) SALISBURY.

No. 142.

The Marquis of Salisbury to Mr. Phelps.

FOREIGN OFFICE, *August 2, 1888.*

SIR: I have the honour to acknowledge the receipt of your letter of the 28th ultimo, calling attention to the question of the proposed Convention between this country, the United States, and Russia for the protection of the seal fisheries in Behring's Sea, and I beg leave to say that I hope shortly to be able to address to you a further communication on the subject.

I have, &c.

(Signed) SALISBURY.

No. 143.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *August 2, 1888.*

SIR: Referring to your letter of the 15th June last, inclosing copies of a telegraphic correspondence with the Governor-General of Canada in regard to the question of the proposed International Convention for the protection of the fur-bearing seals in Behring's Sea, I am directed by the Marquis of Salisbury to transmit herewith a copy of a letter

from Mr. Phelps,* in which, by direction of his Government, he urges the propriety of reaching a conclusion on the subject.

I am to request that, in laying this letter before Secretary Lord Knutsford, you will move him to give as early a consideration as possible to Mr. Phelps' communication.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

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211 No. 144.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *August 3, 1888.*

SIR: I laid before the Marquis of Salisbury your letter of the 1st instant, inclosing a telegram from the Governor-General of Canada reporting the intention of the United States authorities to sell the sealing-vessels "Anna Beck," "Dolphin," "Grace," and "Ada," seized last year in Behring's Sea.

I am directed by his Lordship to state that, in accordance with Lord Knutsford's desire, Her Majesty's Minister at Washington was instructed by telegraph on the 2nd instant to ask the United States Government to postpone the sale of these vessels pending a settlement of the question as to the legality of the seizure.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 145.

Colonial Office to Foreign Office.—(Received August 10.)

DOWNING STREET, *August 10, 1888.*

SIR: In reply to your letter of the 2nd instant, forwarding a note from the American Minister at this Court urging the early consideration of the question of establishing a close time for seals in Behring's Sea, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, copy of telegraphic correspondence with the Governor-General of Canada on the subject.

The Report referred to in the telegram from Lord Stanley of Preston will probably be received on the 14th instant, and will be communicated to you without delay.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure 1 in No. 145.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *August 8, 1888.*

United States Government pressing for early reply question of close time Behring's Sea. When may Report be expected from your Ministers?

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*No. 139.

[Inclosure 2 in No. 145.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

AUGUST 9, 1888.

I sent last Monday Report asked for in your Lordship's telegram 8th August.

No. 146.

Colonial Office to Foreign Office.—(Received August 10.)

DOWNING STREET, *August 10, 1888.*

SIR: With reference to your letter of the 3rd instant, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, copies of further telegraphic correspondence with the Governor-General of Canada respecting the sale of the vessels seized in Behring's Sea last year, and now lying at Port Townsend.

I am, &c.

(Signed) JOHN BRAMSTON.

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212 [Inclosure 1 in No. 146.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

AUGUST 4, 1888.

With reference to my telegram of the 30th July, I am informed by the Minister of Fisheries that the schooners "Dolphin," "Grace," "Ada," and "Anna Beck" will be sold at Port Townsend, in Washington Territory, on the 22nd August.

Immediate intervention of Home Government, as previously asked for, is earnestly requested.

[Inclosure 2 in No. 146.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *August 7, 1888.*

I have received your telegram of 4th August. Instructions sent 2nd August to Her Majesty's Minister at Washington to ask United States Government that, pending settlement of question of legality of seizure, sale of vessels might be postponed.

No. 147.

Colonial Office to Foreign Office.—(Received August 18.)

DOWNING STREET, *August 18, 1888.*

SIR: With reference to the letter from this Department of the 10th instant, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a Minute of his Privy Council on the subject of the proposal of the United States Government for the establishment of a close time for seals in Behring's Sea.

In view of the explanations of the Dominion Government, which state very clearly the strong objections to the proposed close season, it appears to Lord Knutsford that it will be necessary for the United States Government to make some modified proposal if the negotiations are to have *any useful* result.

I am, &c. (Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 147.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, *August 8, 1888.*

MY LORD: With reference to your Lordship's despatch of the 8th March last, transmitting a copy of a letter from the Foreign Office, with a note from the American Minister in London, submitting a proposal for regulating the seal fishing in Behring's Sea, I have the honour to forward herewith a copy of an approved Minute of the Privy Council concurring in a Report of my Minister of Marine and Fisheries protesting against this proposal.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 147.]

Report of a Committee of the Honourable Privy Council for Canada, approved by his Excellency the Governor-General in Council on the 14th July, 1888.

The Committee of the Privy Council have had under consideration a despatch, dated the 8th March, 1888, from the Right Honourable the Secretary of State for the Colonies, transmitting a copy of a letter from the Foreign Office, with a note
213 from the United States Minister in London, submitting a proposal from Mr. Secretary Bayard for the establishment of a close season for the seal fishing in and near Behring's Sea, to extend from the 15th April to the 1st November of each year, and to be operative in the waters lying north of latitude 50° north and between longitude 160° west and 170° east from Greenwich, in which despatch Lord Knutsford asks to be favoured with any observations which the Canadian Government may have to offer on the subject.

The Minister of Marine and Fisheries, to whom the said despatch and inclosures were referred, submits a Report thereon, dated the 7th July, 1888, protesting against Mr. Bayard's proposal as an unjust and unnecessary interference with, or rather prohibition of, rights so long enjoyed to a lawful and remunerative occupation upon the high seas.

The Committee concur in the said Report, and advise that a copy thereof, and of this Minute, if approved, be transmitted by your Excellency to the Right Honourable the Secretary of State for the Colonies.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

[Inclosure 3 in No. 147.]

Minute.

DEPARTMENT OF MARINE AND FISHERIES, CANADA,
Ottawa, July 7, 1888.

The Undersigned has the honour to submit, for the consideration of the Governor-General in Council, the following observations in reply to a despatch from Lord Knutsford to Lord Lansdowne, dated the 8th March, 1888, and inclosing a proposal from Mr. Secretary Bayard for the establishment of a close season for the seal fishing in and near Behring's Sea, to extend from the 15th April to the 1st November of each year, and to be operative in the waters lying north of latitude 50° north and between longitude 160° west and longitude 170° east from Greenwich.

Before entering upon the discussion of this proposition, the Minister desires to call attention to a sentence in a letter from Lord Salisbury to Sir L. S. West, dated the 22nd February, 1888, and forming a part of the above-mentioned despatch, in which Lord Salisbury says:

"The United States Minister called to-day at the Foreign Office and spoke to me about the question of the fur seals in Behring's Sea. He said that the difficulties in regard to the seal fisheries in that sea were mainly connected with the question of the close time, and that no attempt had been made by the authorities of the United States to stop the fishing there of any vessels at the time when it was legitimate."

This clearly implies that Lord Salisbury had been led by the United States Minister to believe that there is a fixed close and open season for the killing of seals in Behring's Sea which is common to all vessels of all nationalities, and that during the open season these may legitimately and without molestation pursue the business of catching seals.

The facts of the case appear to be that within the limits of the Territory of Alaska, which by the United States contention includes the waters of Behring's Sea as far

westward as a line drawn from a point in Behring's Straits south-west to the meridian of longitude 173° west, the killing of fur-bearing animals, amongst which the seal is included, is prohibited by law; that repeated warnings to this effect have been given by the United States authorities, and that vessels both of Canada and the United States have within the past two years been seized and condemned for killing seals within these waters. It also appears that in the Islands of St. George and St. Paul, during the months of June, July, September, and October of each year, the United States Government allows the slaughter of seals to the number of 100,000 by certain citizens of that country known as the Alaska Commercial Company, for which monopoly the United States Government is paid a yearly revenue of more than 300,000 dollars.

At no season of the year, and to no other persons whatever, is it permitted to kill a single seal within what is claimed as the limits of the Territory of Alaska. It is evident, therefore, that there is no part of the year when citizens of any country, with the sole exception of the Alaska Commercial Company, can legitimately kill seals within the limits named; and when Mr. Phelps stated to Lord Salisbury that "no attempt had been made by the authorities of the United States to stop the
214 fishing there of any vessels at the time when it was legitimate," his statement should be read in conjunction with the fact that there is no period of the year when it is legitimate for any vessels to fish for seals in the waters of Alaska.

The proposal to fix a close time is based by Mr. Bayard upon the alleged necessity of immediate measures to prevent the destruction of the seal fishery in Behring's Sea and the North Pacific Ocean.

It is not clear from any information at present possessed that any pressing and absolute necessity exists for any such measures, so far as shown by the present condition of that fishery in the North Pacific.

From a Report made by the Special United States Treasury Agent in Alaska,* dated the 31st July, 1887, it appears:

1. That none but young male seals are allowed to be killed on the Pribyloff Islands, and of these only 100,000 annually.

2. That a careful measurement of the breeding rookeries on St. Paul and St. George Islands showed 6,357,750 seals, exclusive of young males.

3. That 90 per cent. of the pups bred by these go into the water, leaving a mortality of but 10 per cent. at the place of breeding.

4. That fully one-half of the above 90 per cent. of pups returned the following year as yearlings to the rookeries, leaving thus a total mortality of 45 per cent. from various causes at sea.

It needs but a slight consideration of these figures to demonstrate that an addition of millions each year must be made to the surviving seal life in the North Pacific Ocean.

The Agent in his Report says: "This vast number of animals, so valuable to the Government, are still on the increase. The condition of all the rookeries could not be better."

Against the enormous yearly increase of seal life may be placed the average annual slaughter as given in the Memorandum attached to Mr. Bayard's letter, viz., 192,457 for the whole world, or for the seals near to Behring's sea as follows:

Pribyloff Islands	94,967
Commander Islands and Robbin Reef	41,893
Japan Islands	4,000
North-west coast of America	25,000
Or a total of	165,860

With an annual clear increase of millions, and an annual slaughter of less than 200,000 in the North Pacific Ocean, it surely cannot be contended that there is any necessity for such stringent and exclusive measures as the one proposed in order to preserve the seal fishery from threatened destruction. Not only would it appear that the present rate of catch could be permitted, and a continual increase of the total number of seals be assured, but it would seem that this annual take might be many times multiplied without serious fears of exhaustion so long as the present conditions of breeding on the Pribyloff Islands are preserved.

The time proposed as close months deserves consideration, viz., from the 15th April to the 1st November. For all practical purposes, so far as Canadian sealers are concerned, it might as well read from the 1st January to the 31st December.

It is a well-known fact that seals do not begin to enter the Behring's Sea until the middle or end of May; they have practically all left those waters by the end of October. The establishment of the proposed close season, therefore, prohibits the taking of seals during the whole year. Even in that case, if it were proposed to make this close season operative for all on the Islands of St. Paul and St. George as

* Executive Document No. 31, 50th Congress, 1st Session.

well as in the waters of the Behring's Sea, it could at least be said that the close time would bear equally on all.

But the United States Government propose to allow seals to be killed by their own citizens on the rookeries, the only places where they haul out in Alaska, during June, July, September, and October, four of the months of the proposed close season. The result would be that while all others would be prevented from killing a seal in Behring's Sea, the United States would possess a complete monopoly, and the effect would be to render infinitely more valuable and maintain in perpetuity the seal fisheries of the North Pacific for the sole benefit of the United States.

It is to be noted that the area proposed by Mr. Bayard to be affected by the close season virtually covers the whole portion of the Behring's Sea in which the exclusive right of sealing has, during 1886 and 1887, been practically maintained by the United States' Government. To this is added a part of the North Pacific Ocean, north 50° of north latitude, and which commands the approach of the seals to the passes leading into Behring's Sea. By the adoption of this area and close season the United States would gain, by consent, what she has for two years held in defiance of international law and the protests of Great Britain and Canada.

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And while this area would be held closed to all operations except to those of her own sealers on the Pribyloff Islands, the north-west coast of North America up to the 50th parallel of north latitude and the sealing areas on the north eastern coast of Asia would be open to her as before.

The device, if successful, would feed and perpetuate the rookeries on St. Paul and St. George Islands, and add immensely to their value, while it cuts off at one blow the most valuable portion of the high seas from all participation by the sealers of all other nations.

It is to be borne in mind that Canada's interest in this industry is a vital and important one, that she has had a very large capital remuneratively employed in it, and that while by the proposed plan the other Powers chiefly interested have their compensations, Canada has none. To her it would mean ruin so far as the sealing industry is concerned.

Mr. Bayard appeals to the Government of Great Britain on the grounds of the labour interested in preparing the seal-skins in London. It is not necessary that the Alaska Commercial Company should do the sole catching of seals in order to retain this advantage to London labourers. The sealskins taken by Canadian sealers find their way to London to be dressed, just as surely as do those taken by the United States Company. So long as the fishery is not exhausted, London will, other things being equal, retain the advantage she now possesses in this respect. But Mr. Bayard must misapprehend the sense of justice of Her Majesty's Government if he supposes that they would consent to an unjust deprivation of Canadian rights, because of the alleged prospect of perpetuating some small pecuniary advantage to a limited section of her subjects in London. Under this proposal Russia would lose nothing. Her vessels do not now pursue seals in that part of Behring's Sea ceded by her to the United States in 1867. Russia has valuable seal islands of her own: the Commander Islands in Behring's Sea, and Robben Reef in the Okhotsk Sea, on which there are valuable rookeries, and the Russian Government draws a considerable revenue therefrom, as they are under lease to this same Alaska Commercial Company. This part of Behring's Sea does not fall within the proposed closed area.

It has been already shown that the United States would gain largely by the establishment of this close period. From her rookeries on the Pribyloff Islands she draws now a yearly revenue of over 300,000 dollars. This would not only not be interfered with, but would be enormously increased by reason of the perpetual monopoly she would enjoy under the proposed arrangement. But while this is true as to Russia and the United States, Canada would lose the enjoyment of a lucrative right long possessed, and this loss would be fatal to her prosecution of the seal industry, and would be unrelieved by a single compensation.

It is manifest, from a perusal of Mr. Bayard's letter, that the proposition is to prevent the killing of seals during the close time by any process whatever within the area set apart, except, of course, upon the Pribyloff Islands.

Experienced sealers aver that by the present methods of hunting with gun and spear not more than one in ten of the seals struck is lost, and it is not believed that these methods are so destructive as Mr. Bayard alleges.

The method of taking seals by means of the net is not a destructive method, and yet it is proposed to prohibit this as well. It appears, therefore, that what Mr. Bayard intends is to entirely prevent the killing of seals within the area proposed by any methods or by any persons except by the methods employed upon the Pribyloff Islands and by the citizens of the United States, who may, for the time being, enjoy the monopoly of taking seals thereon. Against this unjust and unnecessary interference with, or rather prohibition of, rights so long enjoyed to a lawful and remunerative occupation upon the high seas, the Undersigned begs to enter his most earnest protest.

(Signed) GEO. E. FOSTER,
Acting Minister of Marine and Fisheries.

216 No. 148.

Colonial Office to Foreign Office.—(Received August 20.)

DOWNING STREET, *August 18, 1888.*

SIR: With reference to the letter form this Department of the 10th instant, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, copies of two despatches from the Governor-General of Canada respecting the proposed sale at Port Townshend of four of the British sealing-vessels captured last year in Behring's Sea.

Lord Knutsford hopes that the Minute of the Canadian Government, inclosed in Lord Stanley of Preston's despatch of the 26th July, will receive Lord Salisbury's attentive consideration.

I am at the same time to request that Her Majesty's Minister at Washington may be desired to report when the appeal to the Supreme Court of the United States in the case of the "W. P. Sayward" is likely to come on, and to report generally on the progress of the case.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 148.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, *July 26, 1888.*

MY LORD. With reference to previous correspondence relative to the pending proceedings in the case of the Canadian sealing-vessels seized in Behring's Sea, I have the honour to forward to your Lordship an extract of an approved Minute of the Privy Council, based upon Sir L. West's despatch of the 19th March,* a copy of which, together with other correspondence, noted in the margin, is inclosed herewith.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 148.]

Extract from a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on July 7, 1888.

The Committee of the Privy Council have had under consideration a despatch dated the 19th March, 1888, from Her Majesty's Minister at Washington, relative to pending proceedings in the cases of Canadian sealers seized in Behring's Sea.

The Sub-Committee of Council to whom the question was referred report as follows:

In the despatch of the 19th March, 1888, Sir Lionel Sackville West states that the Attorney-General of the United States had intimated that Rule 10 of the practice in Admiralty and Rules of the Supreme Court (1887) make it plain that the confiscated sealing-ships seized in Behring's Sea can be bonded pending appeal; and Sir Lionel Sackville West further states that, as to the question whether such vessels can be bonded without obligation to appeal, he is advised that, since it was agreed in the Conference that the question of damages should be reserved, any such request would open up the whole question of damages on each side.

The Sub-Committee observe that the obligation sought to be imposed upon the owners of the Canadian vessels seized in Behring's Sea of appealing from the decision of the Magistrate of Sitka to the Supreme Court of the United States, is obviously one which cannot with justice or propriety be enforced. Some doubt exists as to the right of appeal, and if it be held that no appeal will lie, the bonds will be forfeited.

* See No. 110.

Apart from this risk, however, which the owners of the vessels are asked to take upon themselves, it appears that the giving of bonds of such a nature would involve the admission that the Courts of the United States had jurisdiction in regard to the seizures, and that the laws of the United States applied to the cases of these
217 vessels, such propositions could by no means be admitted. The vessels had not entered within the waters over which the laws of the United States extend, and over which the Executive or Judiciary of that country have any authority.

The vessels in question were molested in a lawful occupation on the high seas, and were seized by vessels in the service of the United States but possessing no right whatever to molest the people of Canada or their property on the ocean.

Similar outrages have been committed in the preceding year, and the vessels seized then were ordered to be surrendered by the United States authorities. In the present cases, therefore, the repetition of such acts of violence was a proceeding for which the owners of the vessels have a right to expect that Her Majesty's Government will demand and exact redress.

They should not be asked to seek that redress in the Courts of any foreign country whatever, and the Courts of the United States have no more cognizance of their complaint than the Courts of any other foreign country.

The Committee, concurring in the above Report, advise that your Excellency be moved to transmit a copy of this Minute to the Right Honourable the Secretary of State for the Colonies, and also to the British Minister at Washington.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

[Inclosure 3 in No. 148.]

Sir L. West to the Marquis of Lansdowne, March 19, 1888.

(See Inclosure 2 in No. 110.)

[Inclosure 4 in No. 148.]

Mr. Foster to Sir L. West, March 6, 1888.

(See Inclosure 1 in No. 110.)

[Inclosure 5 in No. 148.—Extract.]

The Marquis of Lansdowne to Sir L. West.

GOVERNMENT HOUSE, *Ottawa, March 23, 1888.*

I have the honour to inclose herewith, for your information, copy of a despatch which I have addressed to the Secretary of State for the Colonies* upon the subject of the Canadian sealing-vessels seized by the United States cruizers in the Behring's Sea.

Should you be able to obtain any information in regard to the action likely to be taken during the present year by cruizers of the United States in the Behring's Sea against vessels frequenting those waters, I shall be much obliged if you will put me in possession of it.

[Inclosure 6 in No. 148.]

Lord Stanley of Preston to Sir L. West.

THE CASCAPEDIA, *New Richmond, July 21, 1888.*

SIR: With reference to your despatch of the 19th March, inclosing a copy of a telegram which you had received from my Minister of Marine and Fisheries relative to the pending proceedings in the cases of Canadian sealing-vessels seized in Behring's Sea, and in reply thereto, setting forth the opinion of the Attorney-General that Rule

*See Inclosure in No. 114.

X of the practice in Admiralty and Rules of the Supreme Court (1887) make it plain that confiscated ships can be bonded pending appeal, I have the honour to
218 forward herewith a copy of an approved Minute of the Privy Council concurring in a report of the Sub-Committee to whom the question was referred.

I have communicated a copy of the inclosed Minute of Council to the Secretary of State for the Colonies.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 7 in No. 148.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, *August 4, 1888.*

MY LORD: With reference to my telegram of the 30th ultimo requesting that the Imperial authorities may urge the United States Government to take steps for postponing the sale of the sealing schooners "Anna Beck," "Dolphin," "Grace," and "Ada," which were seized last year in Behring's Sea, pending the settlement of the question concerning the legality of their seizure, I have the honour to forward herewith a copy of an approved Minute of the Privy Council, upon which my telegram was founded.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 8 in No. 148.]

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on July 30, 1888.

The Committee have had under consideration a telegram dated the 20th July, 1888, from the Lieutenant-Governor of British Columbia with respect to the bonding of the sealing-schooners "Anna Beck," "Dolphin," "Grace," and "Ada," seized in Behring's Sea in 1887.

The Minister of Marine and Fisheries, to whom the said telegram was referred, recommends that the Imperial Government be moved to request the interposition of the United States Government to have the sale of the condemned vessels postponed pending the settlement of the question as to the legality of their seizure.

The Committee submit the above for your Excellency's approval, and advise that your Excellency be moved to communicate by cable to the Colonial Secretary the request of the Lieutenant-Governor of British Columbia, and to urge upon Her Majesty's Government the necessity for immediate communication with the United States Government with a view to save from further and disastrous loss the owners of the condemned vessels.

All of which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council, Canada.

[Inclosure 9 in No. 148.—Telegraphic.]

Lieutenant-Governor Nelson to the Hon. C. H. Tupper.

VICTORIA, BRITISH COLUMBIA, *July 20, 1888.*

The following sealing schooners, seized in Behring's Sea in 1887, "Anna Beck," "Dolphin," "Grace," and "Ada," are now being taken from Sitka to Port Townsend, Puget Sound, to be sold by United States Marshal of Alaska. Judge of District Court of Alaska has refused bonding to owners, giving as reason application too late. Under present circumstances, owners willing and anxious to bond vessels for appraised values:

"Anna Beck," 2,600 dollars; "Dolphin," 7,750 dollars; "Grace," 10,404 dollars; "Ada," 2,900 dollars; or, pending settlement of question, have sale postponed. Will Dominion Government take necessary steps to secure if possible from United States Government that this arrangement shall be acceded to?

219

No. 149.

Sir L. West to the Marquis of Salisbury.—(Received August 27.)

BEVERLY (MASSACHUSETTS), *August 6, 1888.*

MY LORD: With reference to your Lordship's telegram of the 2nd instant, I have the honour to inclose herewith copy of a note which I addressed to the Secretary of State, asking that the sale of the four British vessels seized last year in Behring's Sea may be postponed pending the settlement of the question of the legality of the seizure.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 149.]

Sir L. West to Mr. Bayard.

BEVERLY (MASSACHUSETTS), *August 6, 1888.*

SIR: I have the honour to inform you that Her Majesty's Government have received intelligence to the effect that the four British ships seized last year in Behring's Sea are being taken to Port Townsend for sale by the United States authorities. It would seem that this action has been taken in consequence of the Judge of the District Court of Alaska having refused to bond the owners upon the ground that their application was too late.

The Marquis of Salisbury has now requested me to ask the United States Government to postpone the sale of the said vessels pending the settlement of the question of the legality of the seizure.

I have, &c. (Signed) L. S. SACKVILLE WEST.

No. 150.

Sir L. West to the Marquis of Salisbury.—(Received August 31.)

BEVERLY (MASSACHUSETTS), *August 16, 1888.*

MY LORD: With reference to your Lordship's telegram of the 2nd August, I have the honour to inclose to your Lordship herewith copy of a note which I have received from the Secretary of State, stating that, in pursuance of your Lordship's request conveyed through me, the Acting Attorney-General has directed by telegram and letter the postponement of the sale of the vessels in question, and has also instructed the United States Marshal in charge to receive bonds in lieu of the vessels.

I communicated the substance of this note to your Lordship this day by telegraph, and have informed the Governor-General of Canada to the same effect.

I have, &c. (Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 150.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, August 13, 1888.*

SIR: With further reference to your note of the 6th instant, conveying the request of the Marquis of Salisbury for a postponement of the sale of four British vessels seized in Behring's Sea last year, I have now the honour to state that I have just received a letter from the Acting Attorney-General, informing me that, in pursuance of the request so made, he had directed by telegram and letter the postponement of the sale of the vessels in question, and has also instructed the United States Marshal in charge to receive bonds in lieu of the vessels.

Accept, &c. (*Signed*) T. F. BAYARD.

220

No. 151.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *September 1, 1888.*

SIR: With reference to your despatch of the 16th ultimo, I transmit herewith a copy of a letter from the Colonial Office,* inclosing copies of two despatches from Lord Stanley of Preston to the Secretary of State for the Colonies relative to the proposed sale of four of the British vessels seized when engaged in seal-fishing last year in Behring's Sea.

Before taking any further action with regard to these seizures by the American authorities, I request that you will inform me when the appeal to the Supreme Court of the United States in the case of the "W. P. Sayward" is likely to come on, and to report generally on the progress of the case.

I am, &c.

(Signed) SALISBURY.

No. 152.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *September 1, 1888.*

SIR: I have laid before the Marquis of Salisbury your letter of the 18th ultimo inclosing copies of two despatches from the Governor-General of Canada on the subject of the legal proceedings pending before the United States Courts with regard to the British vessels seized by the American authorities when engaged in seal-fishing in Behring's Sea, and the claims for damages raised by the owners of the vessels.

I am to request that you will state to Secretary Lord Knutsford, in reply, that before taking any action on the Minute of the Canadian Government inclosed with Lord Stanley's despatch of the 26th July, 1888, Lord Salisbury has instructed Her Majesty's Minister at Washington to state when the appeal to the Supreme Court of the United States in the case of the "W. P. Sayward" is likely to come on, and to report generally on the progress of the case.

I am, &c.

(Signed) P. CURRIE.

No. 153.

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *September 3, 1888.*

SIR: With reference to my despatch of the 16th April last, relative to the proposals received from the Government of the United States for concerted action on the part of the Powers interested in the matter, with a view to the establishment of a close season for the preservation of the fur seals resorting to Behring's Sea, I have to inform you that I have recently had a long conversation with Mr. Phelps on the subject.

*No. 148.

He stated that his Government were very anxious that an agreement should be arrived at as soon as possible.

I pointed out the difficulties felt by the Canadian Government, and said that, while the scheme was favourable to the industries of the mother country, considerable apprehension was felt in Canada with respect to its possible effect on colonial interests.

I added that I was still sanguine of coming to an arrangement, but that time was indispensable.

I am, &c. (Signed) SALISBURY.

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221 No. 154.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *September 3, 1888.*

SIR: I have laid before the Marquis of Salisbury your letter of the 18th ultimo, inclosing a copy of a despatch from the Governor-General of Canada, with a Minute of his Privy Council on the proposal made by the United States Government for the establishment of a close time for fur seals in Behring's Sea.

With reference to Lord Knutsford's suggestion that the Government of the United States should make some modified proposal, I am to request that you will inform his Lordship that Lord Salisbury has recently had a long conversation with Mr. Phelps on the subject.

Mr. Phelps stated that his Government were very anxious that an agreement should be arrived at as soon as possible.

The difficulties felt on the subject by the Government of the Dominion were pointed out to him, and he was informed that, while the scheme was advantageous to the industries of the mother country, considerable apprehension was felt in Canada as to its possible effect on colonial interests.

Lord Salisbury added that he was still sanguine of coming to an arrangement, but that time was indispensable.

I am, &c.

(Signed) P. CURRIE.

No. 155.

Sir L. West to the Marquis of Salisbury.—(Received October 1.)

BEVERLY (MASSACHUSETTS), *September 13, 1888.*

MY LORD: With reference to my despatch of the 16th ultimo, I have the honour to inclose to your Lordship herewith copy of a note which I have received from the Secretary of State, together with copy of the correspondence which accompanied it, relative to the sale of certain British vessels seized in Behring's Sea, which sale had, at your Lordship's request, been postponed, and to request your Lordship's instructions as to the answer to be returned.

I have forwarded copies of this correspondence to the Governor-General of Canada.

I have, &c. (Signed) L. S. SACKVILLE WEST.

[Inclosure 1 in No. 155.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, September 10, 1888.*

SIR: Referring to previous correspondence in relation to the sale of the four British vessels condemned for taking seals illicitly in Behring's Sea in 1887, I have the honour to inform you that I have received a communication from the Acting Attorney-General of the 3rd instant, in which an expression of my views is requested upon the propriety of an immediate sale of the vessels in view of certain statements made in regard to them.

As an order for the postponement of the sale and the bonding of the vessels was issued by the Department of Justice in compliance with the request of Lord Salisbury communicated to this Department, I inclose herewith a copy of the letter of the Acting Attorney-General, together with its inclosures, and will be glad to learn whether, in the light of the facts now disclosed, it is still the desire of his Lordship that the sale should not be proceeded with.

I have, &c.

(Signed) T. F. BAYARD.

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223 [Inclosure 2 in No. 155.]

Mr. Jenks to Mr. Bayard.

WASHINGTON, *September 8, 1888.*

SIR: I have the honour to send you copies of letters of the 23rd and 25th ultimo, from Mr. Atkins, United States Marshal for the District of Alaska, and to ask for an expression of your views upon the propriety of an immediate sale of the vessels mentioned by the Marshal on consideration of the statements he makes in relation to them.

I have, &c.

(Signed) G. A. JENKS,
Acting Attorney-General.

[Inclosure 3 in No. 155.]

Mr. Atkins to Mr. Jenks.

SEATTLE, WASHINGTON TERRITORY, *August 23, 1888.*

SIR: In reference to the four condemned British vessels now in my custody, I have the honour to report:

That the owners of the schooners "Anna Beck," "Grace," and "Dolphin" claim that the appraisement made at Sitka one year ago was at the time excessive, and that their value on account of the inclement climate of Alaska has in the meantime been constantly depreciating, and therefore decline to bond them at such appraisement, but request a new appraisement, which, if not granted, they desire the sale to proceed. The owner says, however, that he will furnish satisfactory bonds for the schooner "Anna Beck" at her present appraised value if it can be effected, subject to a final settlement of the matter and without the expense of an appeal to the Supreme Court.

Having myself a practical knowledge of the value of such property, I fully coincide with the claimant that the valuation put on the schooners "Grace" and "Dolphin" at Sitka was excessive.

The schooner "Ada" is owned and registered at Shanghae, China, and her owner, whoever he may be, has not yet made any claim or appearance.

In the meantime, the vessels are remote from my district, thus greatly increasing the responsibility of their safe custody, and the expense thereof constantly increasing.

I desire to be instructed, in case vessels are not soon sold or bonded, what further action to take in reference to returning to my district and leaving the vessels in charge of a special deputy.

I have, &c. (Signed) BARTON ATKINS.

[Inclosure 4 in No. 155.]

Mr. Atkins to Mr. Jenks.

DISTRICT OF ALASKA, OFFICE OF UNITED STATES MARSHAL,
Portland, Oregon, August 25, 1888.

SIR: In view of the present situation relative to the British vessels in my custody now moored at Port Townsend, Washington Territory, I beg leave to state as follows:

That all of said vessels, owing to the length of time they have been out of commission, are in a dilapidated condition, and their depreciation in value is constant and rapid.

That they are small in size, the combined tonnage of the four being only 249 tons.

That the owner of the "Anna Beck," "Grace," and "Dolphin," Captain J. D. Warren, of Victoria, British Columbia, has notified me that he prefers that the "Grace" and "Dolphin" should be sold without further delay, and the "Anna Beck" also, unless he can bond that vessel without instituting an appeal to the Supreme Court, or making the journey to Sitka for that purpose.

That if longer held in custody, they will have to be removed from Port Townsend to some place secure from the fall and winter winds, for permanent moorings.

All of which will be attended by much greater expense comparatively than has heretofore been required for their safe custody.

I do not hesitate to recommend that, in interest of all concerned, the vessels, if not bonded, should be sold without delay. It is my purpose soon to repair to Port Townsend, there to await Department orders.

I have, &c.

(Signed) BARTON ATKINS.

No. 156.

Sir L. West to the Marquis of Salisbury.—(Received October 1.)

BEVERLY (MASSACHUSETTS), *September 15, 1888.*

MY LORD: With reference to your Lordship's despatch of the 1st instant, I have the honour to inform your Lordship that the appeal in the case of the "W. P. Sayward," alluded to therein, has not yet even been docketed in the Supreme Court of the United States.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

No. 157.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *October 2, 1888.*

SIR: With reference to your letter of the 10th August last, I am directed by the Marquis of Salisbury to transmit to you copies of a despatch, and its inclosures, from Her Majesty's Minister at Washington on the subject of the British sealing-vessels seized in Behring's Sea.*

I am to request that, in laying Sir L. West's despatch before Secretary Lord Knutsford, you will move him to inform Lord Salisbury what reply should be returned to the inquiry of the United States Secretary of State with regard to the sale of the vessels seized.

I am, &c.

(Signed) P. CURRIE.

*No. 155.

No. 158.

Colonial Office to Foreign Office.—(Received October 9.)

DOWNING STREET, *October 8, 1888.*

SIR: With reference to your letter of the 2nd instant, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, copies of telegraphic correspondence with the Governor-General of Canada respecting the bonding of the vessels seized last year in Behring's Sea.

Lord Knutsford would be glad if instructions could be given by telegraph to Her Majesty's Minister at Washington to propose to the United States Government the course recommended in Lord Stanley of Preston's telegram of the 6th instant.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 158.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *October 4, 1888.*

With reference to Mr. Bayard's note to Sir L. West of the 10th September relative to Behring's Sea seizures, what answer should be returned?

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224 [Inclosure 2 in No. 158.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

OCTOBER 6, 1888.

Recommend that the United States authorities be moved to authorize the reappraisement of "Grace" and "Dolphin," and in case of "Anna Beck" to accept proposed bonds of owner, subject to final settlement of matter.

No. 159.

The Marquis of Salisbury to Lord Sackville.

[Telegraphic.]

FOREIGN OFFICE, *October 10, 1888.*

In reply to your despatch of the 13th ultimo, I request that you will move United States Government to authorize reappraisement of "Grace" and "Dolphin," and to accept proposed bond of owner, subject to final settlement of matter, in case of "Anna Beck."

No. 160.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *October 10, 1888.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 8th instant, on the subject of the British *vessels seized in* Behring's Sea.

I am to state to you, in reply, for the information of Lord Knutsford, that a telegram has this day been sent to Her Majesty's Minister at Washington, requesting him to move the Government of the United States to authorize the reappraisement of the "Dolphin" and "Grace," and to accept the proposed bond of the owner of the "Anna Beck," subject to a final settlement of the matter.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 161.

Sir L. West to the Marquis of Salisbury.—(Received October 12.)

BEVERLY (MASSACHUSETTS), *September 30, 1888.*

MY LORD: With reference to my despatch of the 13th instant, I have the honour to inclose copy of a further note which I have received from the Secretary of State, relative to the four British sealers condemned for taking seals in Behring's Sea, and requesting a decision in regard the disposition of them.

I have forwarded copy of this note to the Governor-General of Canada.

I have, &c.

(Signed) L. S. SACKVILLE WEST.

[Inclosure in No. 161.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE, *Washington, September 27, 1888.*

SIR: Recurring to the subject of the four British vessels condemned for taking seals illicitly in Behring's Sea in 1887, I have the honour to inform you that I have received from the Acting Attorney-General a letter, dated the 26th instant, inclosing copies of letters from the United States Attorney for Alaska, and the United States Marshal for Washington Territory, of the 7th and 10th instant respectively, in relation to the same matter.

The four vessels, the schooners "Grace," "Dolphin," "Anna Beck," and "Ada," have been transferred by the United States Marshal for Alaska to the custody of the United States Marshal for Washington Territory, and are now at Port Townsend, subject to instructions from the Department of Justice touching their sale or other disposition. The Department is informed that none of the vessels have been bonded, and that the owners of three of them have refused to take that step, on the ground that their appraisement was too high. As the season advances, the probability of realizing a fair price for the vessels will diminish, and the expenses incident to their retention by the Marshal are necessarily accruing.

These considerations make it proper that a decision in regard to the disposition of the vessels should speedily be reached, and I have the honour to request that if it is desired to postpone the sale still further, the Department may be assured at an early day that an arrangement will be made whereby the vessels may be saved from becoming a loss.

I have, &c.

(Signed) T. F. BAYARD.

No. 162.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *October 13, 1888.*

SIR: With reference to my letter of the 10th instant, I am directed by the Marquis of Salisbury to transmit to you a copy of a despatch from Her Majesty's Minister at Washington,* inclosing a note from Mr. Bayard, requesting a decision as to the disposition of the four sealing-schooners "Grace," "Dolphin," "Anna Beck," and "Ada."

I am to request you to move Lord Knutsford to cause Lord Salisbury to be informed what reply should be returned as to the "Ada."

Her Majesty's Minister at Washington has been already communicated with by telegraph in regard to the other three vessels, as you were informed in my letter above referred to.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 163.

Colonial Office to Foreign Office.—(Received October 22.)

DOWNING STREET, *October 20, 1888.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 11th instant, inclosing a copy of a despatch from Her Majesty's Minister at Washington,† stating that the appeal in the case of the "W. P. Sayward" has not yet been docketed in the Supreme Court of the United States.

In your letter of the 1st ultimo, it was stated that before taking any action on the Minute of the Canadian Government, inclosed in the despatch from Lord Stanley of Preston of the 26th July last, Lord Salisbury had instructed Her Majesty's Minister at Washington to state when the appeal to the Supreme Court in the case of the "W. P. Sayward" was likely to come on, and to report generally on the progress of the case.

As it appears from the answer now received from Sir L. West that there is likely to be considerable delay in this case, Lord Knutsford would be glad to be informed whether, in Lord Salisbury's opinion, action should not now be taken on the Minute of the Canadian Privy Council referred to.

I am, &c.,

(Signed) JOHN BRAMSTON

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226 No. 164.

Colonial Office to Foreign Office.—(Received October 26.)

DOWNING STREET, *October 25, 1888.*

SIR: With reference to the letter from this Department of the 8th instant respecting the bonding of certain vessels seized last year in Behring's Sea, I am directed by Lord Knutsford to transmit to you,

* No. 161. † No. 156.

for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada on the subject.

As the papers forwarded by Lord Stanley of Preston do not answer the question in Mr. Bayard's note to Sir Lionel West, dated the 10th September last (inclosed in your letter to this Department of the 2nd instant), so far as concerns the schooner "Ada," Lord Knutsford has telegraphed to the Governor-General of Canada with reference to your letter of the 13th instant, asking what reply should be returned in regard to that vessel.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 164.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, October 8, 1888.*

MY LORD: With reference to your telegram of the 4th instant, inquiring what answer should be returned to Mr. Bayard's note to Sir Lionel West of the 10th September with reference to the bonding of certain British vessels seized some time since in Behring's Sea, I have the honour to inclose herewith a copy of a despatch which I have to-day addressed to Sir Lionel West, covering a copy of an approved Minute of my Privy Council dealing with this subject.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 164.]

Lord Stanley of Preston to Sir L. West.

GOVERNMENT HOUSE, *Ottawa, October 8, 1888.*

SIR: I have the honour to acknowledge the receipt of your despatch of the 13th ultimo, covering copy of a note from the Secretary of State of the United States, with copies of correspondence accompanying it, relative to the bonding of the British ships "Grace," "Dolphin," and "Anna Beck," which were seized some time since in Behring's Sea.

I now beg to inclose copy of an approved Minute of my Privy Council in relation to this matter, from which it will be seen that my Ministers desire that the Government of the United States may be moved to authorize the reappraisement of the schooners "Grace" and "Dolphin," owing to the fact, which is duly set forth in the correspondence accompanying Mr. Bayard's note, that the appraisement made at Sitka more than a year since is regarded by the owners as having been excessive, and as having become still more so, consequent upon the exposure of these vessels to the inclement climate of Alaska.

As regards the case of the "Anna Beck," the Minute recommends that the United States Government may be requested to give instructions that the proposed bonds of the owner may be accepted, subject to a final settlement of this question.

I have, &c.

(Signed) STANLEY OF PRESTON.

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227 [Inclosure 3 in No. 164.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 30th September, 1888.

The Committee of the Privy Council have had under consideration a despatch from Sir L. West to Lord Stanley, under date the 13th September instant, covering copy of a note from the Secretary of State for the United States, together with copies of correspondence which accompanied it, relative to certain ships which had been seized in Behring's Sea.

The Minister of Marine and Fisheries, to whom the above was referred, reports that on the 30th July last a Minute of Council was adopted as follows:

"The Committee have had under consideration a telegram dated the 20th July, 1888, from the Lieutenant-Governor of British Columbia, with respect to the bonding of the sealing schooners 'Anna Beck,' 'Dolphin,' 'Grace,' and 'Ada,' seized in Behring's Sea in 1887. The Minister of Marine and Fisheries, to whom the said telegram was referred, recommends that the Imperial Government be moved to request the interposition of the United States Government to have the sale of the condemned vessels postponed, pending the settlement of the question as to the legality of their seizure.

"The Committee submit the above for your Excellency's approval, and advise that your Excellency be moved to communicate by cable to the Colonial Secretary the request of the Lieutenant-Governor of British Columbia, and to urge upon Her Majesty's Government the necessity for immediate communication with the United States Government, with a view to save from further and disastrous loss the owners of the condemned vessels;" and that in reply to this Minute a telegram, under date of the 18th August, 1888, was received by your Excellency from Sir Lionel West as follows:

"Acting Attorney Garrison has given directions, both by letter and telegram, to postpone the sale of the schooners. The Marshal has also been directed to receive bonds in lieu of the vessels."

The Minister observes that copies of the correspondence referred to confirm the intimation conveyed by the above telegram, that an order for the postponement of the sale, and permitting the bonding of these vessels at the value already appraised, had been made by the Department of Justice at Washington, in compliance with the request of Lord Salisbury. Subsequent to the receipt of this order, the United States Marshal at Seattle, Washington Territory, informed the Attorney-General for the United States that the owners of the schooners "Anna Beck," "Grace," and "Dolphin," claimed that not only was the appraisement made at Sitka a year previously excessive, but that the value of the vessels, on account of the inclement climate at Alaska, had in the meantime been constantly depreciating, and they therefore declined to bond them, with the exception of the "Anna Beck," at such appraisement, but requested a new appraisement, and stated that if a new appraisement was not allowed, the owners desired the sale should proceed.

It further appears from the same communication, that in the case of one of the vessels, the "Anna Beck," the owner is willing to furnish satisfactory bonds, at the value already appraised, if this can be done, subject to a final settlement of the matter, and without necessitating an appeal to the Supreme Court of the United States.

The Minister further observes that, touching the question of excessive appraisement, the United States Marshal states as follows: "Having myself a practical knowledge of the value of such property I fully coincide with the claimant, that the valuation put on the schooners 'Grace' and 'Dolphin' was excessive."

The Committee recommend, therefore, that your Excellency be moved to forward a copy of this Minute to Her Majesty's Minister at Washington, with a view to moving the United States authorities to authorize the reappraisement in the cases of the "Grace" and "Dolphin," and that in the case of the "Anna Beck," instructions be given to accept the proposed bonds of the owner, subject to a final settlement of the matter.

All of which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council, Canada.

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228 No. 165.

Colonial Office to Foreign Office.—(Received November 2.)

DOWNING STREET, *November 1, 1888.*

SIR: With reference to the letter from this Department of the 25th October respecting the bonding of certain vessels seized last year in Behring's Sea, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a telegram received from the Governor-General of Canada relating to the case of the vessel, "Ada."

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 165.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

OCTOBER 28, 1888.

In reply to the inquiry made in your telegram of the 20th October, owners of "Ada" do not object to original appraisement of the vessel. My Ministers advise that action should be taken accordingly.

No. 166.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *November 17, 1888.*

SIR: I have laid before the Marquis of Salisbury your letter of the 1st instant, inclosing a telegram from the Governor-General of Canada, stating that the owners of the "Ada," one of the sealing ships seized last year in Behring's Sea, do not object to the original appraisement of the vessel.

His Lordship directs me to inquire whether Lord Knutsford desires that the substance of Lord Stanley's telegram should be sent to Her Majesty's Legation at Washington, for communication to the United States Government.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 167.

Colonial Office to Foreign Office.—(Received November 21.)

DOWNING STREET, *November 21, 1888.*

SIR: In reply to your letter of the 17th instant, I am directed by Lord Knutsford to acquaint you, for the information of the Marquis of Salisbury, that he thinks it desirable that the substance of the telegram from the Governor-General of Canada respecting the sealing ship "Ada" should be communicated to the Government of the United States.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 168.

The Marquis of Salisbury to Mr. Herbert.

[Telegraphic.]

FOREIGN OFFICE, *November 22, 1888.*

With reference to my telegram of the 10th ultimo, you should inform United States Government owners of "Ada" do not object to original appraisement of the vessel.

229 No. 169.

Colonial Office to Foreign Office.—(Received November 26.)

DOWNING STREET, *November 26, 1888.*

SIR: I am directed by the Secretary of the State for the Colonies to transmit to you, for the information of the Marquis of Salisbury, with reference to previous correspondence, copy of a despatch from the Governor-General of Canada, and of a telegram addressed to him respecting the case of the "Ada," one of the vessels seized last year in Behring's Sea.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 169.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, October 27, 1888.*

MY LORD: With reference to your Lordship's telegram of the 20th instant, and to mine in reply of to-day's date, stating that the owners of the "Ada" do not object to the original appraisement, I have the honour to transmit to your Lordship a copy of an approved Report of a Committee of the Privy Council upon which my telegram was based.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 169.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 27th October, 1888.

The Committee of the Privy Council having referred the telegram of the 20th October instant (1888), from Lord Knutsford, in the terms, "Referring to your telegram 6th October, Behring's Sea, and despatch 8th October; what answer should be returned, 'Ada?'" to the Minister of Marine and Fisheries, who is advised by a despatch from the Lieutenant-Governor of British Columbia that the agent for the owners of the schooner "Ada" does not object to the original appraisement, respectfully recommend that your Excellency be moved to telegraph Lord Knutsford in the above sense in answer to his telegram of the 20th October instant.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 169.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *November 6, 1888.*

With reference to your telegram of 27th October, United States' Government will be informed that owners of "Ada" do not object to original appraisement. I presume it will be for owners to take any further action.

No. 170.

Colonial Office to Foreign Office.—(Received December 4.)

DOWNING STREET, *December 3, 1888.*

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a telegram from the Governor-General of Canada, inquiring whether any answer has yet been received from the United States Government on the subject of the reappraisement of the vessels seized last year in Behring's Sea. The telegram from Lord Stanley of the 6th October, referred to in his present message, was communicated to you in the letter from this Department of the 8th of that month.

Lord Knutsford would be glad to learn whether any answer has been received from the United States Government on this subject, and, if not, he desires me to suggest that a reply should be asked for by telegraph.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure in No. 170.—Telegraphic.]

The Marquis of Lansdowne to Lord Knutsford.

NOVEMBER 29, 1888.

Have you answer from Washington relative to reappraisement of vessels "Grace," "Dolphin," "Anna Beck," referred to in my telegram of the 6th October? Governor British Columbia presses for reply.

No. 171.

The Marquis of Salisbury to Mr. Herbert.

[Telegraphic.]

FOREIGN OFFICE, *December 5, 1888.*

What answer from United States Government as to Behring's Sea seizures referred to in my telegram of 10th October?

No. 172.

Mr. Herbert to the Marquis of Salisbury.—(Received December 5.)

[Telegraphic.]

WASHINGTON, *December 5, 1888.*

In reply to your telegram of to-day, I have received no answer from United States' Government. Have again asked to-day for a reply.

No. 173.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *December 7, 1888.*

SIR: In reply to your letter of the 3rd instant, I am directed by the Marquis of Salisbury to state to you, for the information of Secretary Lord Knutsford, that no reply has been returned by the United States Government to the request that they would authorize the reappraisement of the British vessels "Grace" and "Dolphin" seized in Behring's Sea.

Mr. Herbert, who is in charge of Her Majesty's Legation at Washington, has reported in a telegram, dated the 5th instant, that he had on that day again asked for an answer from the United States Government.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 174.

Mr. Herbert to the Marquis of Salisbury.—(Received December 11.)

WASHINGTON, *November 30, 1888.*

MY LORD: I have the honour to acknowledge the receipt of your Lordship's telegram of the 22nd, and to state that Mr. Bayard,
231 in reply to my communication, that the owners of the "Ada" did not object to the original appraisement, has informed me that the Attorney-General has been made acquainted with their decision.

I have, &c.

For M. H. HERBERT,
(Signed) ARTHUR HERBERT.

No. 175.

Mr. Herbert to the Marquis of Salisbury.—(Received December 24.)

WASHINGTON, *December 12, 1888.*

MY LORD: On the receipt of your Lordship's telegram of the 5th instant, I immediately wrote to Mr. Bayard pressing for a reply to Lord Sackville's note of the 12th October on the subject of the re-appraisement of the British sealers seized in Behring's Sea in 1887, and I have now received a note from him, copy of which with its inclosures I inclose herewith, in which he states that he has been informed by the Attorney-General that orders were given on the 14th ultimo for the sale of the vessels in question, but that he has not yet heard whether the sale has been effected or not. As soon, however, as he is informed by the Department of Justice he will duly advise me as to what has taken place.

I have sent a copy of Mr. Bayard's note to the Governor-General of Canada.

I have, &c.

(Signed) MICHAEL H. HERBERT.

[Inclosure 1 in No. 175.]

Mr. Bayard to Mr. Herbert.

DEPARTMENT OF STATE, *Washington, December 10, 1888.*

SIR: I have the honour to acknowledge the receipt of your note of the 5th instant, in which you call attention to the note of Lord Sackville of the 12th October last, in relation to the appraisement of three of the four British schooners seized and condemned for illicitly taking seals in Behring's Sea in 1887.

The note referred to was at once communicated to the Department of Justice with a request for an opinion on the question of re-appraisement.

Some time previously, upon the request of the Marquis of Salisbury, the sale of the schooners had been stayed by this Government in order that full opportunity might be given to their owners to make some arrangements whereby they might become repossessed of the vessels. On the 11th October, the day preceding the date of the note of Lord Sackville above referred to, the Attorney-General wrote to this Department a letter, copy of which is inclosed, in which he intimated an opinion that the interests of both the United States and the claimants would be best subserved by a speedy sale of the vessels. By this letter it appears that, although the schooners had long since been condemned, no claims had been filed by their owners and no bonds given for costs. Nevertheless, the Department again consulted the Department of Justice in regard to the proposition contained in the note under date of the 12th October. Under date of the 20th October last a reply from the Attorney-General was received, copy of which is inclosed. To this I made answer on the 27th October, expressing my concurrence in the view of the Attorney-General, that, under the circumstances, the wiser course for all concerned was to let the sale of the vessels take place at once, as delay seemed impracticable, and could only be productive of loss.

On the 14th of last month the Attorney-General informed that he had that day directed the United States Marshal in charge of the vessels at Port Townsend, Washington Territory, to take the necessary steps to effect a sale of the four vessels as speedily as possible.

Since that time no correspondence on the subject has taken place with the Department of Justice except a request from this Department on the 17th ultimo that it might be informed of the proceedings of the Marshal under the order above stated.

When a response to this request shall have been received you will be duly advised of its contents.

I have, &c.

(Signed) T. F. BAYARD.

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22 [Inclosure 2 in No. 175.]

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE, *Washington, October 20, 1888.*

SIR: By your communication of the 17th October, 1888, you requested an expression of my views on the arrangement proposed by the British Government in regard to the disposal of the vessels "Grace," "Dolphin," and "Anna Beck." The arrangement referred to is that the United States authorize a re-appraisement of the schooners "Grace" and "Dolphin," and that instructions be given in the case of the "Anna Beck" that bonds of the owner may be accepted subject to the final settlement of the question.

The libels against the vessels were submitted on the stipulation, dated the 10th day of September, 1887, by M. W. Drake on behalf of the masters, they were, on or about the 3rd day of October, 1887, after hearing condemned, and in pursuance of the terms of the stipulation, were ordered to be sold at Port Townsend.

The time for appeal to the Supreme Court of the United States has long since expired.

On the 25th day of August, 1888, the United States Marshal for Alaska reported "that the owner of the 'Anna Beck,' 'Grace,' and 'Dolphin,' Captain J. W. Warren, of Victoria, British Columbia, notified me (him) that he prefers that the 'Grace' and 'Dolphin' should be sold without further delay, and the 'Anna Beck' also, unless he can bond that vessel without instituting an appeal to the Supreme Court, or making the journey to Sitka for that purpose."

The aggregate tonnage of the three vessels, with the "Ada" (for which no owner has been heard from), is but 279 tons.

The vessels, if not sold, will soon be substantially valueless. If attempt be made to keep them over winter a total loss may result.

I therefore adhere to the views expressed in my former communication, that the interests of all concerned will be best subserved by an early sale, and earnestly hope I may receive a prompt communication from you concurring therein.

Very respectfully,

(Signed) A. H. GARLAND, *Attorney-General.*

[Inclosure 3 in No. 175.]

Mr. Grant to Mr. Garland.

DISTRICT OF ALASKA, ATTORNEY-GENERAL'S OFFICE,
Sitka, September 20, 1888.

DEAR SIR: Marshal returned from Port Townsend says no vessel was bonded, and now the parties have concluded not to bond, and want the sale to go on, but I shall instruct the Marshal to await instructions from you. How long shall I wait for the parties to act? No owners have appeared on the record; the record does not show who they are. No claims are filed, or bonds for costs given.

The cases were submitted on the agreement signed by Mr. Drake for the masters, and on his demurrer as Representative of Canadian Government.

Very respectfully,

(Signed) WHIT. M. GRANT, *District Attorney.*

[Inclosure 4 in No. 175.]

IN THE DISTRICT COURT OF THE TERRITORY OF ALASKA.

The United States v. *the British Schooners "Dolphin," "Anna Beck," "Grace," and "Ada."*

It is hereby stipulated and agreed upon between the plaintiffs and the masters of the defendant schooners that the demurrer filed in the matter of the information against J. D. Warren, and the agreement therein, shall apply to the libels filed or to be filed against the above vessels. It is further stipulated and admitted as a fact that the masters of the above-named vessels did kill seals during the month
233 of July 1887, in that portion of Behring's Sea claimed by the United States under the Treaty of 1867 between Russia and the United States, and beyond the limit of 10 miles from any land.

It is further stipulated that in case the vessels or any of them shall be condemned, by any order of the Court, that the same shall not be sold until the expiration of three months from the publication of any order ordering such sales, and that such sales shall take place at Port Townsend or some other point on Puget Sound.

It is further stipulated that the defendants may give security for appeal to the Supreme Court of the United States, or such other Court as may have jurisdiction, by bonds of any qualified bondsmen in Washington Territory, Oregon, or California.

Upon the question of facts thus agreed upon, the parties submit the cases to the Court upon the law question raised by the demurrer.

On behalf of the Masters of the above schooners,

(Signed) M. W. DRAKE.

(Signed) A. K. DELANEY,
Attorney for the United States.

SEPTEMBER 10, 1887.

[Inclosure 5 in No. 175.]

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE, *Washington, October 11, 1888.*

SIR: I herewith inclose copies of communications received from W. M. Grant, United States Attorney for Alaska, from the facts submitted by him in connection with those contained in my letter of the 26th September. I submit whether it will not be expedient, and for the best interests both of the United States and adverse claimants, if there be such, that the vessels referred to be speedily sold. An answer is desired at your earliest convenience.

Very respectfully

(Signed) A. H. GARLAND, *Attorney-General.*

No. 176.

Mr. Herbert to the Marquis of Salisbury.—(Received Januaay 23.)

WASAINGTON, *January 8, 1889.*

MY LORD: I have the honour to report that Mr. Hoar introduced a Resolution in the Senate on the 3rd instant, asking for any correspondence that may have taken place with Great Britain in regard to the seal-fisheries in or near Behring's Straits, especially as to the seizure or release of any British vessels by the United States; and also asking for information as to the Regulations governing the fisheries which have been adopted by the United States Government.

Mr. Hoar alleges that there have been, and still are, widespread complaints of unjust discrimination made against American vessels in those waters, and that while they are not permitted to take seals out at sea, which is perfectly proper and right, no interference is made with the operations of the vessels of other countries, particularly those of Great Britain

This Resolution, which was adopted by the Senate, was probably prompted by the reference in the President's Message to a proposed arrangement with foreign Powers for the protection of fur-seals in Behring's Sea, which has aroused a good deal of curiosity here.

The passage in question ran as follows:

"My endeavours to establish, by international co-operation, measures for the prevention of the extermination of fur-seals in Behring's Sea, have not been relaxed, and I have hopes of being enabled shortly to submit an effective and satisfactory Conventional project with the Maritime Powers for the approval of the Senate."

I will not fail to send your Lordship a copy of the correspondence asked for as soon as it is presented to Congress.

I have, &c.

(Signed) MICHAEL H. HERBERT.

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34 No. 177.

The Marquis of Salisbury to Mr. Edwardes.—(Substance telegraphed.)

FOREIGN OFFICE, *March 23, 1889.*

SIR: My attention has been called to a telegram, dated Washington, the 22nd March, which appeared in the "Times" of to-day, to the effect that President Harrison has issued a Proclamation warning foreign fishing-vessels against entering the waters of Behring's Sea, within the dominion of the United States, for unlawful fishing for fur-bearing animals or salmon.

I have to request you to report to me, by telegraph, the exact terms of the Proclamation referred to.

I am, &c.

(Signed) SALISBURY.

No. 178.

Mr. Edwardes to the Marquis of Salisbury.—(Received by telegraph, March 23.)

WASHINGTON, *March 23, 1889.*

MY LORD: I have had the honour to inform your Lordship to-day, by telegraph, that a Proclamation was issued late yesterday afternoon by the President, warning all persons against entering the waters of Behring's Sea within the domain of the United States for the purpose of violating the provisions of section 1956 of the Revised Statutes relating to the killing of fur-bearing animals, and that, if found doing so, they will be arrested and their vessels, apparel, &c., will be seized.

I have, &c.

(Signed) H. G. EDWARDES.

No. 179.

Mr. Edwardes to the Marquis of Salisbury.—(Received by telegraph, March 23.)

WASHINGTON, *March 23, 1889.*

MY LORD: In obedience to your Lordship's instructions received in your telegram of to-day's date, I had the honour to send to you, by telegraph, the exact terms of the President's Proclamation issued yesterday afternoon, which he issued under the authority granted to him by the Act of the 2nd March, 1889, providing for the protection of the salmon fisheries of Alaska.

This Proclamation, copies of which I have the honour to inclose, warns all persons against violating the laws of the United States in the waters of Behring's Sea, with regard to killing fur-bearing animals, the penalty for such violation being arrest of person and seizure and confiscation of vessels, apparel, &c.

I have, &c.

(Signed) H. G. EDWARDES.

[Inclosure in No. 179.]

Extract from the "Washington Post" of March 23, 1889.

ALASKA WITHOUT A GOVERNOR.—A PROCLAMATION REGARDING FUR-BEARING ANIMALS AND SALMON.—Governor A. P. Swineford some time since wrote out his resignation as Governor of Alaska, and sent it to the Interior Department, where it remains unacted upon. Since then the Governor wrote that he should leave Alaska for home on the 6th March, so that he is now out of the territory, and Alaska is without an executive head.

The following Proclamation was issued late yesterday afternoon:

A Proclamation.

By the President of the United States.

The following provisions of the Laws of the United States are hereby published for the information of all concerned:

235 Section 1956 Revised Statutes, chapter 3, title 23, enacts that—

No person shall kill any otter, mink, marten, sable, or fur seal, or other fur-bearing animal, within the limits of Alaska territory, or in the waters thereof; and

every person guilty thereof shall, for each offence, be fined not less than 200 dollars, nor more than 1,000 dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur seals, under such regulations as he may prescribe, and it shall be the duty of the Secretary to prevent the killing of any fur seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law, nor shall he grant any special privileges under this section.

Section 3 of the Act entitled "An Act to provide for the protection of the Salmon Fisheries of Alaska," approved the 2nd March, 1889, provides that—

Section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominion of the United States in the waters of Behring's Sea, and it shall be the duty of the President at a timely season in each year to issue his Proclamation, and cause the same to be published for one month at least in one newspaper (if any such there be) published at each United States port of entry on the Pacific Coast, warning all persons against entering such waters for the purpose of violating the provisions of said section, and he shall also cause one or more of the vessels of the United States to diligently cruize said waters, and arrest all persons and seize all vessels found to be or to have been engaged in any violation of the Laws of the United States therein.

Now, therefore I, Benjamin Harrison, President of the United States, pursuant to the above recited Statutes, hereby warn all persons against entering the waters of Behring's Sea within the domain of the United States for the purpose of violating the provisions of said section 1956 Revised Statutes, and I hereby proclaim that all persons found to be or to have been engaged in any violation of the Laws of the United States in said waters will be arrested and punished as above provided, and that all vessels so employed, their tackle, apparel, furniture, and cargoes, will be seized and forfeited.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 21st day of March, 1889, and of the Independence of the United States the 113th.

(Signed) BENJ. HARRISON.

By the President,
(Signed) JAMES G. BLAINE,
Secretary of State.

Sailing orders have been sent to the United States steamer "Thetis" at the Mare Island Navy Yard to proceed to Sitka, touching *en route* at such places as her commanding officer may deem necessary. When she arrives at Sitka and communicates with the civil authorities she will, if the situation is quiet and her presence there is not required, continue on northward, and devote attention particularly to the whaling fleet and to other commercial interests of the United States in the waters about Behring's Straits and the Arctic Ocean.

As the whaling vessels usually leave the Arctic in the latter part of September, the presence of the "Thetis" until then will add security to those engaged in that important industry, and the "Thetis" will remain until they have taken their departure southward, taking care not to be caught in the ice. She will return to Sitka and await further instructions.

No. 180.

Colonial Office to Foreign Office.—(Received March 26.)

DOWNING STREET, *March 26, 1889.*

SIR: I am directed by Lord Knutsford to request that you will call the attention of the Marquis of Salisbury to the accompanying copy of a telegram from Washington which appeared in the "Times" of the 23rd instant.

As the Canadian sealing-vessels will shortly be proceeding to
236 the sealing-grounds in Behring's Sea, Lord Knutsford would be glad if Lord Salisbury would telegraph to Her Majesty's Chargé d'Affaires at Washington to ascertain whether the statement in the telegram is correct.

I am to suggest also that Mr. Herbert should, at the same time, be instructed, if the statement is correct, to inform the United States Government that Her Majesty's Government cannot require the masters of British vessels, when fishing in Behring's Sea beyond the 3-mile limit, to recognize the laws of the United States.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 180.]

The Alaska Fisheries.

WASHINGTON, *March 22.*

President Harrison has issued a Proclamation, warning foreign fishing-vessels against entering the waters of Behring's Sea, within the dominion of the United States, for unlawful fishing for fur-bearing animals or salmon.

No. 181.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *March 30, 1889.*

SIR: I have laid before the Marquis of Salisbury your letter of the 26th instant, calling attention to a telegram which appeared in the "Times" of the 23rd instant respecting the Proclamation by the President of the United States in regard to the seal-fisheries in Behring's Sea, and suggesting that a representation should be made to the United States Government on the subject.

His Lordship directs me to state, for Lord Knutsford's information, that it is proposed to defer any action in the matter until the receipt of the Act for the protection of salmon in Alaska, which is now on its way from Washington.

I am, &c.

(Signed) P. CURRIE.

No. 182.

Mr. Edwardes to the Marquis of Salisbury.—(Received April 1.)

WASHINGTON, *March 15, 1889.*

MY LORD: I have the honour to state that, having heard privately from a Member of the House of Commons, who has lately been travelling in Canada, that the sale of the three seized British sealers was ordered to take place on the 26th instant, I telegraphed to the Governor-General of Canada (copy of telegram inclosed) to inquire whether the owners of those vessels were willing to bond their ships, and that, if so, I would endeavour to procure from the United States authorities a postponement of the sale.

In the meantime, I learnt privately that if I addressed such an application to the United States Government, the Solicitor-General, to whom it would be referred, the matter having been under consideration in his Department, would at once order a postponement.

I received last night a telegram (copy inclosed) from Lord Stanley of Preston, informing me that the Canadian Minister of Marine is not of opinion that any intervention on the part of Her Majesty's Legation at this moment would be of value. The owners of the vessels were not willing to bond at the valuation made by the United States authorities, and the late Administration had refused to allow a revaluation.

I shall, consequently, refrain from action in the matter without further instructions.

I have, &c.

(Signed) H. G. EDWARDES.

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27 [Inclosure 1 in No. 182.—Telegraphic.]

Mr. Edwardes to Lord Stanley of Preston.

WASHINGTON, *March 8, 1889.*

I have learnt from private source that the three seized British sealers are to be sold on the 26th instant.

I might endeavour to obtain a postponement of the sale if the owners are willing to bond their vessels.

[Inclosure 2 in No. 182.]

Lord Stanley of Preston to Mr. Edwardes.

MARCH 12, 1889.

Your telegram of the 8th March.

Minister of Marine does not think that any interference just now would be of any value. Owners of vessels will not bond at present valuation, and request for revaluation was refused by late Government.

No. 183.

Mr. Edwardes to the Marquis of Salisbury.—(Received April 1.)

WASHINGTON, *March 18, 1889.*

MY LORD: I have the honour to inclose to your Lordship herewith a copy of a Bill which has become law, providing for the protection of the salmon fisheries of Alaska.

I have thought it worthy of transmission on account of section 3 of the Act which might possibly be quoted in connection with the seizure of sealers in the Behring's Sea.

I have, &c.

(Signed) H. G. EDWARDES.

[Inclosure in No. 183.]

[PUBLIC—No. 158.]

An Act to provide for the Protection of the Salmon Fisheries of Alaska.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled,

That the erection of dams, barricades, or other obstructions to any of the rivers of Alaska, with the purpose or result of preventing or impeding the ascent of salmon or other anadromous species to their spawning grounds, is hereby declared to be

unlawful, and the Secretary of the Treasury is hereby authorized and directed to establish such regulations and surveillance as may be necessary to insure that this prohibition is strictly enforced, and to otherwise protect the salmon fisheries of Alaska; and every person who shall be found guilty of a violation of the provisions of this section shall be fined not less than 250 dollars for each day of the continuance of such obstruction.

SEC. 2. That the Commissioner of Fish and Fisheries is hereby empowered and directed to institute an investigation into the habits, abundance, and distribution of the salmon of Alaska, as well as the present conditions and methods of the fisheries, with a view of recommending to Congress such additional legislation as may be necessary to prevent the impairment or exhaustion of these valuable fisheries, and placing them under regular and permanent conditions of production.

SEC. 3. That section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominion of the United States in the waters of Behring's Sea; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation, and cause the same to be published for one month in at least one newspaper, if any such there be published at each United
239 States port of entry on the Pacific coast, warning all persons against entering said waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruise said waters and arrest all persons, and seize all vessels found to be, or to have been, engaged in any violation of the Laws of the United States therein.

Approved March 2, 1889.

No. 184.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *April 4, 1889.*

SIR: I am directed by the Marquis of Salisbury to transmit, for the information of Secretary Lord Knutsford, a copy of a despatch from Mr. Edwardes, Her Majesty's Chargé d'Affaires at Washington,* on the question of the sale of the three British vessels seized by the United States authorities in 1887 when engaged in seal fishing in Behring's Sea, and I am to request that you will move his Lordship to furnish Lord Salisbury with any observations he may have to offer on Mr. Edwardes' despatch.

I am, &c.

(Signed) T. H. SANDERSON.

No. 185.

Mr. Edwardes to the Marquis of Salisbury.—(Received April 5.)

[Extract.]

WASHINGTON, *March 25, 1889.*

I have the honour to transmit to your Lordship herewith extracts of the correspondence which has been published in response to a Senate Resolution of the 2nd January, 1889, upon the seal fisheries in Behring's Sea.

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* No. 182.

[Inclosure in No. 185.]

Extracts from Part IV of the Message from the President of the United States of February 12, 1889, 50th Congress, 2nd Session, Ex. Doc. No. 106.

Mr. Poletica to Mr. Adams.

[Translation.]

WASHINGTON, *January 30 (February 11), 1822.*

The Undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of All the Russias, in consequence of orders which have lately reached him, hastens herewith to transmit to Mr. Adams, Secretary of State in the Department of Foreign Affairs, a printed copy of the Regulations adopted by the Russian-American Company, and sanctioned by His Imperial Majesty, relative to foreign commerce in the waters bordering the establishments of the said Company on the north-west coast of America.

The Undersigned conceives it to be, moreover, his duty to inform Mr. Adams that the Imperial Government, in adopting the Regulation, supposes that a foreign ship, which shall have sailed from a European port after the 1st March, 1822, or from one of the ports of the United States after the 1st July of the same year, cannot lawfully pretend ignorance of these new measures.

The Undersigned, &c.

(Signed) PIERRE DE POLETICA.

[Inclosure 1.]

Edict of His Imperial Majesty, Autocrat of All the Russias.

The directing Senate maketh known unto all men:

Whereas in an Edict of His Imperial Majesty issued to the directing Senate on the 4th day of September, and signed by His Majesty's own hand, it is thus expressed:

"Observing, from Reports submitted to us, that the trade of our subjects on the Alentian Islands and on the north-west coast of America, appertaining unto Russia, is subject, because of secret and illicit traffic, to oppression and impediments; and finding that the principal cause of these difficulties is the want of Rules establishing the boundaries for navigation along these coasts, and the order of naval communication, as well in these places as on the whole of the eastern coast of Siberia
239 and the Kurile Islands, we have deemed it necessary to determine these communications by specific Regulations, which are hereto attached.

"In forwarding these Regulations to the directing Senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution."

(Signed) Count D. GURIEF, *Minister of Finances.*

It is therefore decreed by the directing Senate that His Imperial Majesty's Edict be published for the information of all men, and that the same be obeyed by all whom it may concern.

[The original is signed by the directing Senate.]

Printed at St. Petersburgh. In the Senate, the 7th September, 1821.

[On the original is written, in the handwriting of His Imperial Majesty, thus:]

Be it accordingly.

(Signed) ALEXANDER.

KAMENNOY OSTROFF, *September 4, 1821.*

[Inclosure 2.]

Rules established for the Limits of Navigation and Order of Communication along the coast of the Eastern Siberia, the north-western coast of America, and the Aleutian, Kurile, and other Islands.

Section 1. The pursuits of commerce, whaling, and fishing, and of all other industry, on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring's Strait to the 51st degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring's Strait to the south cape of the Island of Urup, viz., to 45° 50′ northern latitude, are exclusively granted to Russian subjects.

Sec. 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation along with the whole cargo.

Sec. 3. An exception to this rule is to be made in favour of vessels carried thither by heavy gales, or real want of provisions, and unable to make any other shores but such as belong to Russia; in these cases they are obliged to produce convincing proofs of actual reason for such an exception. Ships of friendly Governments, merely on discoveries, are likewise exempt from the foregoing Rule (section 2). In this case, however, they must previously be provided with passports from the Russian Minister of the Navy.

* * * * * * *

Mr. Adams to Mr. Poletica.

DEPARTMENT OF STATE, *Washington, February 25, 1822.*

SIR: I have the honour of receiving your note of the 11th instant, inclosing a printed copy of the Regulations adopted by the Russian-American Company, and sanctioned by His Imperial Majesty, relating to the commerce of foreigners in the waters bordering on the establishment of that Company upon the north-west coast of America.

I am directed by the President of the United States to inform you that he has seen with surprise, in this Edict, the assertion of a territorial claim on the part of Russia, extending to the 51st degree of north latitude on this continent, and a Regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within 100 Italian miles of the shores to which that claim is made to apply. The relations of the United States with His Imperial Majesty have always been of the most friendly character, and it is the earnest desire of this Government to preserve them in that state. It was expected, before any act which should define the boundary between the territories of the United States and Russia on this continent, that the same would have been arranged by Treaty between the parties. To exclude the vessels of our citizens from the shore beyond the ordinary distance to which the territorial jurisdiction extends, has excited still greater surprise.

This Ordinance affects so deeply the rights of the United States and of their citizens that I am instructed to inquire whether you are authorized to give explanations of the grounds of right, upon principles generally recognized by the laws and usages of nations, which can warrant the claims and Regulations contained in it.

I avail, &c.

(Signed) JOHN QUINCY ADAMS.

Mr. Poletica to Mr. Adams.

WASHINGTON, *February 28, 1822.*

Mr. Poletica replied on the 28th of the same month, and, after giving a summary of historical incidents which seemed to him to establish the title of Russia to the territories in question by first discovery, said:

"I shall be more succinct, Sir, in the exposition of the motives which determined the Imperial Government to prohibit foreign vessels from approaching the north-west coast of America belonging to Russia within the distance of at least 100 Italian miles. This measure, however severe it may at first appear, is, after all, but a measure of prevention. It is exclusively directed against the culpable enterprises of foreign adventurers, who, not content with exercising upon the coasts above
240 mentioned an illicit trade very prejudicial to the rights reserved entirely to the Russian-American Company, take upon them besides to furnish arms and ammunition to the natives in the Russian possessions in America, exciting them likewise in every manner to resist and revolt against the authorities there established.

"The American Government doubtless recollects that the irregular conduct of these adventurers, the majority of whom was composed of American citizens, has been the object of the most pressing remonstrances on the part of Russia to the Federal Government from the time that Diplomatic Missions were organized between the countries. These remonstrances, repeated at different times, remain constantly without effect, and the inconveniences to which they ought to bring a remedy continue to increase. . . .

"I ought, in the last place, to request you to consider, Sir, that the Russian possessions in the Pacific Ocean extend, on the north-west coast of America, from Behring's Strait to the 51st degree of north latitude, and on the opposite side of Asia and the islands adjacent, from the same strait to the 45th degree. The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to shut seas ("mers fermées"), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights without taking any advantage of localities."

Mr. Adams to Mr. Poletica.

DEPARTMENT OF STATE, *Washington, March 30, 1822.*

SIR: I have had the honour of receiving your letter of the 28th ultimo, which has been submitted to the consideration of the President of the United States.

From the deduction which it contains of the grounds upon which Articles of Regulation of the Russian-American Company have now, for the first time, extended the claim of Russia on the north-west coast of America to the 51st degree of north latitude, its only foundation appears to be the existence of the small Settlement of Novo Archangelsk, situated, not on the American continent, but upon a small island in latitude 57°; and the principle upon which you state that this claim is now advanced is that the 51st degree is exquidistant from the Settlement of Novo Archangelsk and the establishment of the United States at the mouth of the Columbia River. But, from the same statement, it appears that, in the year 1799, the limits prescribed by the Emperor Paul to the Russian-American Company were fixed at the 55th degree of latitude, and that, in assuming now the latitude 57°, a new pretension is asserted, to which no settlement made since the year 1799 has given the colour of a sanction.

This pretension is to be considered not only with reference to the question of territorial right, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts. From the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and the right to navigate them is a part of that independence.

With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea, in latitude 51° north, is not less than 90 degrees of longitude, or 4,000 miles.

As little can the United States accede to the justice of the reason assigned for the prohibition above mentioned. The right of the citizens of the United States to hold commerce with the aboriginal natives of the north-west coast of America, without the territorial jurisdiction of other nations, even in arms and munitions of war, is as clear and indisputable as that of navigating the seas. That right has never been exercised in a spirit unfriendly to Russia; and, although general complaints have occasionally been made on the subject of this commerce by some of your predecessors, no specific ground of charge has ever been alleged by them of any transaction in it which the United States were, by the ordinary laws and usages of nations, bound either to restrain or to punish. Had any such charge been made, it would have received the most pointed attention of this Government, with the sincerest and firmest disposition to perform every act and obligation of justice to yours which could have been required. I am commanded by the President of the United States to assure you that this disposition will continue to be entertained, together with the earnest desire that the harmonious relations between the two countries may be preserved.

Relying upon the assurance in your note of similar dispositions reciprocally entertained by His Imperial Majesty towards the United States, the President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights.

I am, &c.

(Signed) JOHN QUINCY ADAMS.

Mr. Poletica to Mr. Adams.

[Extract.]

WASHINGTON, *April 2, 1822.*

Mr. Poletica replied on the 2nd April following, and after again endeavouring to prove the title of Russia to the north-west coast of America, from Behring's Straits to the 51st degree of north latitude, said:

"In the same manner the great extent of the Pacific Ocean at the 51st degree of latitude cannot invalidate the right which Russia may have of considering
241 that part of the ocean as close. But as the Imperial Government has not thought fit to take advantage of that right, all further discussion on this subject would be idle.

"As to the right claimed by the citizens of the United States of trading with the natives of the country of the north-west coast of America, without the limits of the jurisdiction belonging to Russia, the Imperial Government will not certainly think of limiting it, and still less of attacking it there."

Mr. Adams to Mr. Middleton.

[Extract.]

DEPARTMENT OF STATE, *Washington, July 22, 1823.*

From the tenour of the Ukase of the 4th (16th) September, 1821, the pretensions of the Imperial Government extend to an exclusive territorial jurisdiction from the 45th degree of north latitude, on the Asiatic coast, to the latitude of 51° north on the western coast of the American continent; and they assume the right of interdicting the navigation and fishery of all other nations to the extent of 100 miles from the whole of that coast.

The United States can admit no part of these claims. Their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, after the Peace of 1783 throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions, which, so far as Russian rights are concerned, are confined to certain islands north of 55th degree of latitude, and have no existence on the Continent of America.

At the fourth Conference which preceded the signature of the Treaty of the 5th (17th) April, 1824, Mr. Middleton, the United States Representative, submitted to Count Nesselrode the following paper:

"[Translation.]

"The dominion cannot be acquired but by a real occupation and possession, and an intention ('animus') to establish it is by no means sufficient.

"Now, it is clear, according to the facts established, that neither Russia nor any other European Power has the right of dominion upon the continent of America between the 50th and 60th degrees of north latitude.

"Still less has she the dominion of the adjacent maritime territory, or of the sea which washes these coasts, a dominion which is only accessory to the territorial dominion.

"Therefore she has not the right of exclusion or of admission on these coasts, nor in these seas, which are free seas.

"The right of navigating all the free seas belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

"The United States have exercised navigation in the seas, and commerce upon the coasts above mentioned, from the time of their independence; and they have a perfect right to this navigation and to this commerce, and they can only be deprived of it by their own act or by a Convention."

Extract from Convention of April 5 (17), 1824.

Article I. It is agreed that, in any part of the great ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in

fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles.

Art. II. With a view of preventing the rights of navigation and of fishing exercised upon the great ocean by the citizens and subjects of the High Contracting Powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the Governor or Commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the north-west coast.

Art. III. It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the north-west coast of America, nor in any of the islands adjacent, to the north of 54° 40′ of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

Art. IV. It is nevertheless understood that, during a term of ten years, counting from the signature of the present Convention, the ships of both Powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbours, and creeks upon the coast mentioned in the preceding Article, for the purpose of fishing and trading with the natives of the country.

Mr. Forsyth to Mr. Dallas.

DEPARTMENT OF STATE, *Washington, May 4, 1837.*

SIR: I regret to have occasion so soon again to advert to a subject connected with the claims of the United States to the right of trading with the natives of the
242 country, and of fishing on the north-west coast of this continent. You will perceive from a perusal of the accompanying papers that the expiration of the IVth Article of the Convention of 1824 with Russia is not unlikely to be attended with difficulties to our citizens frequenting that coast in pursuit of lawful objects. The leading features of the case, to which your attention is now invited (the particulars of which are more fully detailed in the inclosed copy of a letter, dated the 24th November last, from J. C. Jones, Consul of the United States at the Sandwich Islands, to this Department, and of the protest to which it refers), are as follows:

The American brig "Loriot," Blinn, master, sailed from the port of Oahu on the 22nd August last, bound to the north-west coast of America, for the purpose of procuring provisions, and also Indians to hunt for sea-otter on the said coast. It appears that she made the land called Forrester's Island on the 14th September following, and on the 15th anchored in the harbour of Tuckessan, latitude 54° 55′ north, and longitude 132° 30′ west; that on the 18th a Russian armed brig arrived in the harbour of Tateskey, latitude 54° 45′ north, and longitude 132° 55′ west; that on the succeeding day the "Loriot" was boarded by officers from the Russian brig, who ordered the captain of the American vessel to leave the dominions of His Majesty the Emperor of Russia; that Captain Blinn then repaired on board the Russian brig, where the same orders were repeated to him by the Commander; that on the 20th and 23rd days of the same month these orders were reiterated; that on the 25th the "Loriot" was boarded by two armed boats from the Russian brig, and directed to get under way and proceed to the harbour of Tateskey; that on the 27th the armed boats again boarded the American brig, and compelled the captain to proceed to Tateskey; that when off that place, the weather being threatening, permission was asked of the Russian Commander to enter the harbour with the "Loriot," which request was denied, and Captain Blinn was again ordered to leave the waters of His Imperial Majesty; and that Captain Blinn, being prevented from procuring supplies or necessaries for his vessel, and from obtaining any Indians (for the purpose of hunting sea-otter), was finally obliged to abandon his voyage and return to the Sandwich Islands, where he arrived on the 1st November of the same year.

The harbours designated in Captain Blinn's protest by the names of Tuckessan and Tateskey are not laid down on any Map to which I have referred, and the Department has no knowledge of any Russian establishments having been formed on the north-west coast or adjacent islands in or about the latitude given for these places. It will, therefore, be proper to ascertain whether there are, in fact, Russian Settlements at the points designated, and, if so, you are authorized to make a representation of the whole subject to His Imperial Majesty's Government, complaining of the proceedings in relation to the "Loriot," which are supposed to have been unauthorizedly instigated by the Russian American Fur Company, and stating that the President cannot but regard this act as one of a most unfriendly character, as the United

States have had no official or other notice of the existence of such establishments, and have not, although an application has long since been made for them, ever been furnished by the Russian Government with the Regulations, consequent on the expiration of the IVth Article of the Convention, proposed to be applied to American vessels resorting to Russian Settlements on that coast.

On the other hand, should there prove to be no Russian establishments at the places mentioned, this outrage on the "Loriot" assumes a still graver aspect. It is a violation of the right of the citizens of the United States, immemorially exercised and secured to them as well by the law of nations as by the stipulations of the Ist Article of the Convention of 1824, to fish in those seas, and to resort to the coast for the prosecution of their lawful commerce upon points not already occupied. As such, it is the President's wish that you should remonstrate, in an earnest but respectful tone against this groundless assumption of the Russian Fur Company, and claim from His Imperial Majesty's Government for the owners of the brig "Loriot," for their losses and for the damages they have sustained, such indemnification as may, on an investigation of the case, be found to be justly due to them.

I am, &c.

(Signed) JOHN FORSYTH.

Mr. Forsyth to Mr. Dallas.

[Extract.]

DEPARTMENT OF STATE, *Washington, November 5, 1837.*

With reference to your remarks regarding the proper construction of the Convention of April 1824 between the United States and Russia, the Ist Article of that instrument is only declaratory of a right which the parties to it possessed, under the law of nations, without Conventional stipulations, to wit, to navigate and fish in the ocean upon an unoccupied coast, and to resort to such coast for the purpose of trading with the natives.

No. 186.

Mr. Edwardes to the Marquis of Salisbury.—(Received April 6.)

WASHINGTON, *March 23, 1889.*

MY LORD: With reference to my despatch of the 18th instant, to my telegram of the 23rd instant, to your Lordship's telegram of the 23rd instant, and to my telegram of the same day, I have the honour to report that the Proclamation issued on the afternoon of the 22nd instant by the President, declaring that all persons entering the waters of Behring's Sea within the domain of the United States for the
243 purpose of killing fur-bearing animals, or of violating Regulations to be made with regard to the salmon fisheries of Alaska, shall be arrested and their vessels, &c., seized, has been issued on the power given to him by the "Act to provide for the protection of the salmon fisheries in Alaska."

Copy of this Act was inclosed in my despatch of the 18th instant, and was one of the last Acts which was passed in the closing hours of Congress.

The Bill originated in the Senate where it was passed, after having been reduced to sections 1 and 2 of the present Act, and in that condition sent to the House.

At that time there was before the House another Bill of similar import, which had been referred back from the Committee of Merchant Marine and Fisheries, and was waiting to be reached.

When the Senate Bill came up before the House section 3 was added to it as an amendment, which amendment the House intended to take

the place of their Bill, the passing of which was evidently impossible on account of want of time. The Senate refused to accept the House amendment, and the Bill was accordingly referred to a Conference, the result of whose action was its acceptance at the last hour by both Houses. I am told that the President's approval and signature were really only obtained on Sunday, the 3rd instant, but as that day is not a legal day, the approval is dated the 2d instant.

Like many other Acts, it was hurried through the Legislature in its last hours without any but its immediate instigators having any knowledge of its scope or even of its effect, and there can be no doubt but that the House amendment to the Senate Bill, that is to say, section 3, has been the work of those interested in the Alaska Fur-seal Company.

The President has lost no time in making use of the authority it has given him, by issuing the Proclamation which appeared yesterday, one of the objects of which is to again assert the claim of the United States to dominion over the Behring's Sea, which claim the United States Government denied when it was put forward by the Russian Government by the Imperial Ukase of the 14th (16th) September, 1821.

The Proclamation may also deter American and Canadian fishermen from engaging in seal fishing in the open waters of the Behring's Sea this season.

Section 1956 of the Revised Statutes provides for the punishment of persons killing fur-bearing animals without the authorization of the Secretary of the Treasury (the taking of seals being still further restricted) "within the limits of Alaska Territory, or in the waters thereof."

Section 3 of the Act of the 2nd March, 1889, extends section 1956 to "all the dominion of the United States in the waters of the Behring's Sea."

It may consequently be thought that the Proclamation following upon the Act is an attempt to settle an international question, which, doubtless, other Powers may still consider an open one.

I have, &c.

(Signed) H. G. EDWARDES.

No. 187.

Mr. Edwardes to the Marquis of Salisbury.—(Received April 5.)

WASHINGTON, *March 25, 1889.*

MY LORD: With reference to my dispatch of the 18th instant, inclosing a copy of the Act to provide for the protection of the salmon fisheries of Alaska, I have now the honour to report in detail the course of this Act through the two Houses in Congress.

On the 25th February, Mr. Stockbridge, Senator for Michigan, introduced a Bill, copy inclosed, to amend section 1963 of the Revised Statutes, and to provide for the better protection of the fur seals and salmon fisheries of Alaska, and for other purposes, which was read twice and referred to the Committee on Fisheries.

The Bill was reported back by Mr. Stockbridge a few days later, copy of Report is herewith inclosed, the Committee having recommended an amendment in the nature of a substitute. The whole Bill as amended

then consisted solely of sections 1 and 2 of the Act as ultimately passed, and in that state it was passed by the Senate, almost without discussion.

The Bill was then brought up before the House, and an amendment was offered by Mr. Dunn, which added a section 3. The amendment ran as follows:

244 "Section 3. That section 1956 of the Revised Statutes of the United States was intended to include and apply, and is hereby declared to include and apply, to all the waters in Behring's Sea in Alaska embraced within the boundary lines mentioned and described in the Treaty with Russia, dated 30th March, A. D. 1867, by which the Territory of Alaska was ceded to the United States; and it shall be the duty of the President at a timely season in each year to issue his Proclamation, and cause the same to be published for one month in at least one newspaper published at each United States port of entry on the Pacific coast, warning all persons against entering said territory and waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruize said waters, and arrest all persons and seize all vessels found to be, or to have been, engaged in any violation of the Laws of the United States therein:" and, after an explanation that the object of the amendment was solely the preservation of seals from extermination, was passed. When the Bill came back to the Senate, the House amendment above cited was disagreed to; the objection being made that the amendment touched upon the question of the rights of the Government of the United States. These, it was maintained by Senator Morgan, had not been considered, or intended be considered, in the original Senate Bill, and there was now no time to consider a question of such importance. A Conference of the two Houses was consequently called, which agreed to recommend the adoption of the Bill, with an amendment to run as follows:

That section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominion of the United States in the waters of Behring's Sea; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation, and cause the same to be published for one month in at least one newspaper if any such there be published at each United States port of entry on the Pacific coast, warning all persons against entering said waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruize said waters, and arrest all persons and seize all vessels found to be, or to have been, engaged in any violation of the Laws of the United States therein.

In this shape the Bill was ultimately accepted by both Houses, the Conferrees from the Houses recognizing that there was no time to allow of the discussion and passage of another Bill of similar import introduced into the House by Mr. Dunn. The approval and signature by the President were obtained on the last day of the Session.

Further copies of the Act are herewith inclosed, together with the full report of the proceedings taken from the Congressional Record.

I have, &c.

(Signed) H. G. EDWARDES.

[Inclosure 1 in No. 187.]

(50th Congress, 2nd Session.—S. 3993.)

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1889.—Mr. Stockbridge introduced the following Bill; which was read twice and referred to the Committee on Fisheries.

A Bill to amend Section 1963 of the Revised Statutes, and to provide for the better Protection of the Fur Seals and Salmon Fisheries of Alaska, and for other Purposes.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled: that section 1963 of the Revised Statutes of the United States be amended so as to read as follows:

"Section 1963. Within one year prior to the time when the lease heretofore made by the Secretary of the Treasury to the Alaska Commercial Company, of the right to engage in taking fur seals on the islands of St. Paul and St. George, pursuant to the Act of the 1st July, 1870, cap. 189, or when any future similar lease expires, or is surrendered, forfeited, or terminated, the Secretary of the Treasury shall
245 lease to proper and responsible parties, for the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, their comfort, maintenance, and education, as well as to the interests of the parties heretofore engaged in the trade and the protection of the fisheries, the right of taking fur seals on the islands herein named, and of sending a vessel or vessels to the islands for the skins of such seals, for the term of twenty years, at an annual rental of not less than 50,000 dollars, to be reserved in such lease and secured by a deposit of United States bonds to that amount; and the additional sum of not less than 3 dol. 50 c. for each fur seal skin taken and shipped from the islands of St. Paul and St. George during the continuance of any lease, to be paid into the Treasury of the United States, and every such lease shall be duly executed in duplicate, and shall not be transferable; and the Secretary of the Treasury is empowered to make all needful regulations for the collection and payment of the same, and to secure the comfort, maintenance, education, and protection of the natives of those islands, and also to carry into full effect all the provisions of this chapter, except as otherwise prescribed. And he shall give at least sixty days' notice of the letting of said lease, by publication in at least one daily paper published in the cities of Boston, New York, Philadelphia, Baltimore, Washington, Chicago, New Orleans, St. Louis, and San Francisco, inviting bids for the same."

Sec. 2. That section 1956 of the Revised Statutes of the United States was intended to include and apply, and is hereby declared to include and apply, to all the waters of Behring's Sea in Alaska embraced within the boundary lines mentioned and described in the Treaty with Russia, dated 30th March, A. D. 1867, by which the Territory of Alaska was ceded to the United States; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation and cause the same to be published for one month in at least one newspaper published at each United States port of entry on the Pacific coast, warning all persons against entering said territory and waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruize said waters, and arrest all persons, and seize all vessels found to be, or to have been, engaged in any violation of the Laws of the United States therein.

Sec. 3. That section 1969 of the Revised Statutes of the United States be, and the same is hereby, repealed.

Sec. 4. That the erection of dams, barricades, or other obstructions in any of the rivers of Alaska, with the purpose or result of preventing or impeding the ascent of salmon or other anadromous species to their spawning grounds, is hereby declared to be unlawful, and the Secretary of the Treasury is hereby authorized and directed to establish such Regulations and surveillance as may be necessary to insure that this prohibition is strictly enforced; and every person who shall be found guilty of a violation of the provisions of this section shall be fined not less than 250 dollars for each day of the continuance of such obstruction.

Sec. 5. That the Commissioner of Fish and Fisheries is hereby empowered and directed to institute an investigation into the habits, abundance, and distribution of the salmon of Alaska, as well as the present conditions and methods of the fisheries, with a view of recommending to Congress such additional legislation as may be necessary to prevent the impairment or exhaustion of these valuable fisheries, and placing them under regular and permanent conditions of production.

[Inclosure 2 in No. 187.]

(50th Congress, 2nd Session.—Report No. 2687.)

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1889.—Ordered to be printed.

Mr. Stockbridge, from the Committee on Fish and Fisheries, submitted the following

Report (To accompany Bill S. 3993).

The Committee on Fish and Fisheries, to whom was referred the Bill (S. 3993) to amend section 1963 of the Revised Statutes, and to provide for the better protection of the fur seals and salmon fisheries of Alaska, and for other purposes, beg leave to offer a substitute therefor, together with the accompanying Report:

246 Salmon of different species are abundantly distributed to all the waters of Alaska from British Colombia to Norton Sound. The greater portion of their life is spent in salt water. They enter the rivers mainly for the purpose of reproduction, and it is there that they become the object of pursuit and capture. The spawning grounds are on the gravelly beds at the sources of the rivers.

Any obstructions placed in the rivers which wholly or in considerable measure prevent them from reaching their spawning grounds will in a very short period of time result in the destruction of valuable fisheries, which under judicious regulation and restraint are a source of continuing wealth and production to the inhabitants of the territory. Up to the present time one river only, the Korluk, on the Island of Kodiak, has been seriously obstructed by the use of dams or barricades to arrest the ascent of salmon. This stream, hardly 20 miles long, yielded during the season of 1888 salmon to the value of 1,200,000 dollars. This extraordinary production has been at the cost of permanence, and should the use of dams and barricades be continued several years longer, the Korluk will cease to be a salmon river.

The marvellous profits reaped by the canners on the Korluk River in 1888 has stimulated enterprise all along the west coast, and numerous expeditions are being now fitted out for the purpose of engaging in the salmon fisheries of Alaska the present season. Their objective points are the small streams, which can be readily obstructed by dams or other barriers, and it is certain that, in the absence of restraining legislation, this means of enhancing profits will be resorted to without scruple, and without regard to the fact that such methods generally pursued will result in the destruction of the salmon fisheries of the territory.

[Inclosure 3 in No. 187.]

An Act to provide for the Protection of the Salmon Fisheries of Alaska.

(See Inclosure in No. 183.)

[Inclosure 4 in No. 187.]

Salmon Fisheries of Alaska.

Mr. Stockbridge.—I am directed by the Committee on Fisheries, to whom was referred the Bill (S. 3993) to amend section 1963 of the Revised Statutes, and to provide for the better protection of the fur seals and salmon fisheries of Alaska, and for other purposes, to report it with an amendment in the nature of a substitute. It is a short Bill, and a very important one to the fisheries of Alaska. It is very strongly urged by the Fish Commissioner. I ask for the present consideration of the Bill.

The President, pro tempore.—The Senator from Michigan asks unanimous consent that the Bill reported by him may be now considered. It will be read at length for information.

The Bill was read.

The amendment reported by the Committee on Fisheries was to strike out all *after the enacting* clause, and insert:

"That the erection of dams, barricades, or other obstructions in any of the rivers of Alaska, with the purpose or result of preventing or impeding the ascent of salmon or other anadromous creatures to their spawning grounds, is hereby declared to be unlawful; and the Secretary of the Treasury is hereby authorized and directed to establish such Regulations and surveillance as may be necessary to insure that this prohibition is strictly enforced, and to otherwise protect the salmon fisheries of Alaska; and every person who shall be found guilty of a violation of the provisions of this section shall be fined not less than 250 dollars for each day of the continuance of such obstruction.

"Sec. 2. That the Commissioner of Fish and Fisheries is hereby empowered and directed to institute an investigation into the habits, abundance, and distribution of the salmon of Alaska, as well as the present conditions and methods of the fisheries, with a view of recommending to Congress such additional legislation as may be necessary to prevent the impairment or exhaustion of these valuable fisheries, and placing them under regular and permanent conditions of production."

By unanimous consent, the Senate, as in Committee of the whole, proceeded to consider the Bill.

247 *The President, pro tempore.*—The question is on agreeing to the amendment reported by the Committee on Fisheries.

The amendment was agreed to.

The Bill was reported to the Senate as amended, and the amendment was concurred in.

The Bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. Dawes.—The title should be amended. I call the attention of the Senator from Michigan to the fact that the Bill does not relate to the fur seals as amended.

Mr. Stockbridge.—No, Sir; it relates to the salmon fisheries of Alaska. The title should be amended.

The title was amended so as to read: "A Bill to provide for the Protection of the Salmon Fisheries of Alaska."

Mr. Platt.—Does the section of the Revised Statutes which is referred to relate to salmon fisheries?

Mr. Stockbridge.—Yes, Sir.

Mr. Stewart.—I should like to have the Bill lie over, so that I may look at it. I do not know that I shall want to object to it after I examine it.

The President, pro tempore.—The Senator from Nevada moves to reconsider the vote by which the Senate passed the Bill.

Mr. Dawes.—I wish to say to the Senator from Nevada that unless the Bill goes to the other branch immediately it will be entirely useless. It is the result of an investigation of a Committee in the other branch with reference to the salmon fisheries only. It has nothing to do with the fur-seal fisheries.

Mr. Stewart.—I will enter a motion to reconsider and look at it.

The President, pro tempore.—The Senator from Nevada enters a motion to reconsider the vote by which the Bill was passed.

Mr. Stewart subsequently said: I should like to withdraw my motion to reconsider the Bill in regard to the salmon fisheries of Alaska.

The President, pro tempore.—Is there objection? The Chair hears none, and the motion to reconsider is withdrawn. The Bill stands passed.

Salmon Fisheries of Alaska.

The Speaker also laid before the House the Bill (S. 3993) to provide for the protection of the salmon fisheries of Alaska.

Mr. Dunn.—Mr. Speaker, the provisions of that Bill are contained in a Bill reported unanimously from the Committee on Merchant Marine and Fisheries. It is an emergency Bill, necessary for the preservation of the salmon fisheries of Alaska, and I ask unanimous consent that it be now considered. It contains nothing else but the necessary measures for the protection of these important fisheries.

The Speaker.—The Bill which the gentleman from Arkansas says has been reported from the Committee on Merchant Marine and Fisheries has been read already in the House, and unless there be a demand for the reading of the Senate Bill, the reading will be dispensed with.

There was no objection.

Mr. Anderson, of Kansas.—Is this the Bill that makes the lease to the Fisheries Company?

Mr. Dunn.—No; this is a different Bill. I shall report that from the Committee, and give the House ample opportunity to consider it hereafter. This is a Senate Bill, which relates simply to the salmon *fisheries. It is* identical with sections 4

and 5 of the House Bill, prohibiting the erection of dams or other obstructions in the rivers of Alaska which prevent the salmon from ascending to their spawning grounds.

The Speaker.—Is there objection to the present consideration of the Bill?

There was no objection.

Mr. Dunn.—I offer an amendment which relates also to the preservation of the herd of seals, and I ask the previous question upon the Bill and amendment.

Mr. Biggs.—I reserve the right to object.

The Speaker.—The amendment will be read.

The Clerk read as follows:

"Section 3. That section 1956 of the Revised Statutes of the United States was intended to include and apply, and is hereby declared to include and apply, to all the waters of Behring's Sea in Alaska embraced within the boundary lines
248 mentioned and described in the Treaty with Russia, dated the 30th March, A. D. 1867, by which the Territory of Alaska was ceded to the United States; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation, and cause the same to be published for one month in at least one newspaper published at each United States port of entry on the Pacific coast, warning all persons against entering said territory and waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruize said waters, and arrest all persons and seize all vessels found to be, or to have been, engaged in any violation of the Laws of the United States therein."

Mr. Taulbee.—I would like to ask the gentleman, in the light of his explanation, the necessity for this Resolution at this time.

Mr. Dunn.—The necessity is that the general Bill, reported by the Committee to the House, has been recommitted for the purpose of considering certain amendments relating to the reletting of the lease and the length of its term in future, and in the present condition of the House, it is not at all probable that it will receive final consideration in time to pass the Senate. This amendment simply provides for the protection to the herd of seals and the salmon until there can be further legislation of a permanent character.

Mr. Taulbee.—Does it have the effect of sending up the vessels named in this amendment as patrols to protect the Company which already has the control of that business?

Mr. Dunn.—Not at all. It is to protect the herd of seals and enforce the Laws of the United States which were enacted in 1870.

Mr. Taulbee.—Why can not the President do that by existing law?

Mr. Dunn.—There has been a relaxation of the enforcement of the Law heretofore, so that unauthorized persons have concluded that the Government does not intend to enforce the Law, and not less that 150 vessels are to-day fitting out to go to Behring's Sea. They will literally cover that sea with unlawful seal-hunters armed with guns, and the destruction of seal-life that will take place, and the fusilade of fire-arms that will occur in that sea during four months of next summer will drive every seal from it that is not killed in the general and indiscriminate slaughter. It does not change the Law, but commands the President of the United States to enforce it.

Mr. Buchanan.—And is not this method of getting seals—by shooting them in the open sea—the most wasteful method that could be devised, only about one in five being recovered?

Mr. Dunn.—About one out of seven is recovered. The time has come when the Government must enforce the Laws for the preservation of our herd of seals with firmness and decision, or suffer an absolute destruction of the herd. The danger is imminent, and I hope no gentleman will object to it. It does not involve a dollar of expenditure.

It is useless to protect the seals on the rookeries—the islands of St. Paul and St. George—and leave them to their fate in the waters of Behring's Sea. If they are left without protection in the sea, there will soon be none left to go to the rookeries. (Cries of "Vote!" "Vote!")

The amendment was agreed to.

The Bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. Dunn moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the Table.

The latter motion was agreed to.

Salmon Fisheries of Alaska.

The President, pro tempore.—Reports of Committees are now in order.

Mr. Sherman.—I am instructed by the Committee on Foreign Relations to report back the Bill (S. 3993) to amend section 1963 of the Revised Statutes, and to provide for the better protection of the fur seals and salmon fisheries of Alaska, and for other purposes, with the House amendment, with a recommendation that the House amendment be disagreed to. I ask for its present consideration.

The Presiding Officer (Mr. Chace in the chair).—Is there objection to the present consideration of the House amendment to this Bill? The Chair hears none.

The title of the Bill was read.

The Presiding Officer.—Does the Senator wish a Conference?

249 *Mr. Sherman.*—I ask that the amendment of the House be disagreed to, and then I shall ask for a Committee of Conference.

The Presiding Officer.—It is moved by the Senator from Ohio that the Senate disagree to the amendment of the House of Representatives.

Mr. Morgan.—Has this Bill passed the Senate?

Mr. Sherman.—It is a Senate Bill which has passed the House with an amendment. We now report disagreement to the House amendment.

Mr. Morgan.—And the question is on disagreeing to the amendment of the House.

Mr. Sherman.—Yes, sir.

Mr. Morgan.—I wish to say just this: That in the Report made by the Committee the rights of the Government of the United States were not considered, and not intended to be considered. We only arrive at the conclusion that the question presented in the amendment of the House is of such a serious and important a character that the Committee on Foreign Relations would not undertake at this time to pronounce that kind of judgment upon it which is due to the magnitude of such a question.

I desire that the Bill as it passed the Senate originally should pass, because it protects the salmon and other fisheries in Alaska, about which there is no dispute; but this particular question is one of very great gravity and seriousness, and the Committee on Foreign Relations, or at least a majority of the entire Committee, did not feel warranted in undertaking to consider it at this time.

Mr. Sherman.—I intended, when the amendment was properly before us, to say to the Senate that the Committee on Foreign Relations were of the opinion that while there was no objection at all to the Senate Bill as it passed, it being for a clear and plain purpose, the question proposed by the House in the form of an amendment was a grave one, and had no relation to the subject-matter of the Bill, and ought not to be connected with it, had no connection really with it, and involved serious matters of international law, perhaps, and of public policy, and therefore it ought to be considered by itself.

I was directed by the Committee to state that the subject-matter, the merits of the proposition proposed by the House, were not before us, and not considered by us, and we are not at all committed for or against the proposition made by the House. We make this Report simply because it has no connection with the Bill itself, and it ought to be disagreed to and abandoned, and considered more carefully hereafter. I therefore ask for a Committee of Conference on the disagreeing votes of the two Houses.

The Presiding Officer.—The question is on agreeing to the amendment of the House of Representatives.

The amendment was not concurred in.

The Presiding Officer.—The Senator from Ohio now moves that the Senate ask for a Conference with the House of Representatives on the disagreeing votes.

The motion was agreed to.

Alaska Salmon Fisheries.

Mr. Dunn.—I submit the following Conference Report.

The Clerk read as follows:

"The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the Bill to provide for the protection of the salmon fisheries of Alaska having met, after full and free conference have agreed to recommend to their respective Houses, and do recommend:

"That the Senate recede from its disagreement to the amendment of the House, and agree to the same, with an amendment to read as follows:

"'Section 3. That section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominions of the United States in the waters of Behring's Sea, and it shall be the duty of the President at a timely season in each year to issue his Proclamation, *and cause the* same to be published for one month at least *in one newspaper (if any such there* be) published at each United

States port of entry on the Pacific coast, warning all persons against entering s
waters for the purpose of violating the provisions of said section, and he shall
cause one or more vessels of the United States to diligently cruize said wat
250 and arrest all persons and seize all vessels found to be, or to have b
engaged in any violation of the Laws of the United States therein.'

"And the House agree to the same."

(Signed) POINDEXTER DUNN,
BENTON MCMILLIN,
CHARLES N. FELTON,
Managers on the part of the Hous

(Signed) JOHN SHERMAN,
J. T. MORGAN,
GEORGE F. EDMUNDS,
Managers on the part of the Senat

The following is the Statement accompanying the Report under the Rule:

STATEMENT.

"The effect of the amendment is to leave out of the House amendment the w
that are descriptive of the boundaries of the waters of Alaska."

(Signed) POINDEXTER DUNN,
BENTON MCMILLIN,
C. N. FELTON,
Managers on the part of the Hous

The Conference Report was adopted.

Mr. Dunn moved to reconsider the vote by which the Conference Report
adopted; and also moved that the motion to reconsider be laid on the Table.

The latter motion was agreed to.

Salmon Fisheries of Alaska.

Mr. Sherman.—I ask that the action of the House of Representatives on Sen
Bill 3993 be laid before the Senate.

The Resolution of the House of Representatives was read as follows:

"IN THE HOUSE OF REPRESENTATIVES, *March 2, 188*

"*Resolved*, that the House concur in the Report of the Committee of Confere
on the disagreeing votes of the two Houses on the amendment of the House to
Bill (S. 3993) to provide for the protection of the salmon fisheries of Alaska."

Mr. Sherman submitted the following Report:

"The Committee of Conference on the disagreeing votes of the two Houses on
amendments of the Senate to the Bill (S. 3993) to provide for the protection of
salmon fisheries of Alaska having met, after full and free conference have agree
recommend, and do recommend, to their respective Houses as follows:

"That the Senate recede from its disagreement to the amendment of the Hou
and agree to the same, with an amendment to read as follows:

"'Section 3. That section 1956 of the Revised Statutes of the United State
hereby declared to include and apply to all the dominion of the United States in
waters of Behring's Sea, and it shall be the duty of the President, at a timely sea
in each year, to issue his Proclamation, and cause the same to be published for
month in at least one newspaper (if any such there be) published in each Uni
States port of entry on the Pacific coast, warning all persons against entering s
waters for the purpose of violating the provisions of said section, and he shall ca
one or more vessels of the United States to diligently cruize said waters, and arr
all persons and seize all vessels found to be, or to have been, engaged in any violat
of the Laws of the United States therein.'

"And the House agree to the same."

(Signed) JOHN SHERMAN,
JOHN T. MORGAN,
GEORGE F. EDMUNDS,
Managers on the part of the Senate

(Signed) POINDEXTER DUNN,
BENTON MCMILLIN,
C. N. FELTON,
Managers on the part of the House

251 *The President, pro tempore.*—If there be no objection to the present consid
ation of the Report, the question is upon concurring in the same.

The Report was concurred in.

No. 188.

Colonial Office to Foreign Office.—(Received April 11.)

DOWNING STREET, *April 10, 1889.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt your letters of the 25th ultimo and 3rd instant, inclosing copies of patches from Her Majesty's Chargé d'Affaires at Washington on the hring's Sea question.*

The Proclamation recently issued by President Harrison with regard the seal fishing in Behring's Sea appears to raise an important ques- n as to the meaning which is attached by the United States Gov- iment to the words "all the dominion of the United States in the ter of Behring's Sea," which is the term used in the Act upon which e Proclamation is founded.

Bearing in mind the interpretation which the United States Govern- nt has hitherto placed upon the dominion of the United States in hring's Sea, it seems to his Lordship worthy of consideration whether ne intimation, such as that suggested in the letter from this Depart- nt of the 26th March, should not be conveyed to the United States.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 189.

Colonial Office to Foreign Office.—(Received April 11.)

DOWNING STREET, *April 10, 1889.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of our letter of the 4th instant, transmitting, for his Lordship's informa- on, a copy of a despatch from Her Majesty's Chargé d'Affaires at Washington, on the question of the sale of three British vessels seized y the United States authorities in 1887, when engaged in seal fishing n the Behring's Sea.

2. In reply, his Lordship desires me to state, for the information of he Secretary of State for Foreign Affairs, that he has no observations to offer on the despatch referred to.

3. Lord Knutsford would be glad to learn what is the present posi- tion of the appeal in the case of the steam-ship "W. P. Sayward."

I am, &c.

(Signed) JOHN BRAMSTON.

No. 190.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *April 11, 1889.*

SIR: I transmit herewith copies of despatches from Her Majesty's Chargé d'Affaires at Washington, as marked in the margin,† relative to the Act of the United States Congress of the 2nd March, 1889, pro-

*Nos. 179 and 183. †Nos. 179, 186, and 187.

viding for the protection of the salmon fisheries of Alaska, and the Proclamation which has been issued by the President of the United States in pursuance of its provisions.

The Act declares that section 1956 of the Revised Statutes of the United States "includes and applies to all the dominion of the United States in the waters of Behring's Sea," and directs the President, "at a timely season in each year to issue his Proclamation, warning all persons against entering the said waters for the purpose of violating the provisions of the said section," &c.

That section (1956) enacts that "no person shall kill any otter, mink,
marten, sable, or fur seal, or other fur-bearing animal within the
252 limits of Alaska territory, or in the waters thereof;" and the
President, after reciting the section in question and the section of the Salmon Act in which it is referred to, proceeds by his Proclamation to "warn all persons against entering the waters of Behring's Sea within the domain of the United States for the purpose of violating the provisions of the said section 1956, Revised Statutes," &c.

I am directed by Marquis of Salisbury to request that, in laying the inclosed papers before Lord Knutsford, you will point out to his Lordship that the Act and Proclamation, taken strictly, do no more than assert the rights of the United States in their territorial waters. In fact, the discussions in the Senate and the House of Representatives, recorded in Inclosure 4 to Mr. Edwardes' despatch of the 25th ultimo, show that the majority in the Senate desired to avoid committing themselves by any words in the Act to an interpretation of the Treaty rights of the United States in Behring's Sea, and that the House of Representatives acquiesced in that intention.

I am, &c.

(Signed) P. CURRIE.

No. 191.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *April 13, 1889.*

SIR: With reference to Mr. Edwardes' despatch of the 15th ultimo, I have to request that you will report to me, for the information of the Secretary of State for the Colonies, what is the present position of the appeal in the case of the steam-ship "W. P. Sayward," last reported on in Sir L. West's despatch of the 15th September, 1888.

I am, &c.

(Signed) SALISBURY.

No. 192.

Mr. Edwardes to the Marquis of Salisbury.—(Received April 16.)

WASHINGTON, *April 2, 1889.*

MY LORD: Although the Bill introduced by Mr. Dunn into the House of Representatives to amend section 1963 of the Revised Statutes, and to provide for the better protection of the fur seals and salmon fisheries of Alaska, and for other purposes, did not become law, I think it right

to submit a Report as to the proceedings in the House which took place in regard to it, on account of its connection with the Act passed on the 2nd March for the protection of the salmon fisheries of Alaska.

The first section of Mr. Dunn's Bill related to the leasing to any person or Company, by the Secretary of the Treasury, of the right to take fur-seals on certain islands.

The second section extended to all the waters of Behring's Sea. The prohibition contained in section 1956 of the Revised Statutes to kill fur-bearing animals (except to those authorized), and calls on the President to issue a Proclamation every year warning all persons against entering the waters of the Behring's Sea for that purpose; and to cause vessels of the United States to police those waters, to arrest all found in such illegal hunting, and to seize their vessels, &c.

The other sections referred to the protection of salmon in Alaska waters.

The Bill was referred to the Committee on Merchant Marine and Fisheries, and reported back by Mr. Dunn. The Report, copy of which is herewith inclosed, is most interesting, and gives the result of investigation into the subject of the fur-seal fisheries of Alaska, and of the leases granted by the Government to persons or Companies for the rights of taking fur-bearing animals in those parts, &c.

Mr. Dunn opened the discussion on the Bill by reviewing the rights of the United States in the waters of Alaska, which were acquired by the Treaty with Russia in 1867. Every right, every privilege, every immunity which, he said, Russia had had in the territory of Alaska, the United States now have. Chief among the interests acquired by the United States by their purchase from Russia was the seal rookery of the Pribyloff Islands.

He then went on to give an account of the lease held by the
253 Alaska Commercial Company of the amount of seals allowed to be killed under its provisions, and of the amount of revenues obtained by the United States from this territorial acquisition.

It was most important, he said, that the seas should be patrolled by United States vessels, and that unlawful hunters should know that if found they will be arrested and their vessels seized.

Several vessels had thus been seized last season, the legality of the seizure being contested on the grounds that the United States Government had no jurisdiction over that sea. The Courts had sustained the right of jurisdiction of the Government over the sea, and their right to protect the fisheries. If there had been any leniency in releasing the seized vessels on the part of the Executive, it was pending some negotiations about the Eastern Fisheries question.

However, in no case have the rights of the United States been waived. The State Department has taken no decision conceding that the Behring's Sea is an open sea. The Committee have been satisfied that the policing of the sea must be more rigid, and that no indulgence must be shown to violators of the law. The existence of the inhabitants of the Aleutian Islands and of other parts in the United States possessions in those latitudes depends on the continuation of the legitimate killing of seals. They get all their means of existence from those employed in it. The Committee have therefore considered it advisable that the President should issue a Proclamation yearly, warning all persons from entering Behring's Sea with the intention of violating the existing laws; and, moreover, he should be called upon to see to the closer patrolling of that sea.

If this be not done the seal rookeries will be open to every one, and the herds of seals will not last three years. No Government would wish for this result. On the contrary, it is understood that other Governments are more than willing that the seals should be protected. The United States Government have but to be firm, positive, and unmistakable in their policy.

Mr. Dingley also spoke strongly in favour of the Bill, the most noteworthy portion of his speech being that in which he refers to the claim of Russia, before the cession by her of Alaska to the United States, to exclusive jurisdiction in the Behring's Sea, to the controversy that took place between Russia and the United States when the former attempted to extend that jurisdiction, and to the Treaties between Russia and the United States and between Russia and Great Britain, whereby the rights of Russia were recognized to control the Behring's Sea north of 55°.

Several amendments were offered to the Bill, which was ultimately recommitted, the last stage it reached before Congress expired.

As I had the honour to report to your Lordship, in my despatch of the 23rd ultimo, the House seeing that Mr. Dunn's Bill could not possibly pass before the closing of Congress, added an amendment to the Senate bill (which was ultimately accepted, and the Bill was passed) in the shape of an addition of a section 3 of the same import as section 2 in Mr. Dunn's Bill, and it has been in response to this amendment of the House that the President has issued his Proclamation of the 22nd March.

I have, &c. (Signed) H. E. EDWARDES.

No. 193.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *April 18, 1889.*

SIR: I have laid before the Marquis of Salisbury your letter of the 10th instant, in which you call attention to the Proclamation issued by President Harrison on the 22nd ultimo for the protection of the fur seals in Behring's Sea, and to the Act recently passed by the United States Congress on which that Proclamation is based.

In view of the previous action of the United States authorities on the spot, and of the meaning which may be attached by the Government of the United States to the words "all the dominion of the United States in the waters of Behring's Sea," employed in section 3 of the Act, Lord Knutsford suggests that an intimation should be made to that Government, that Her Majesty's Government cannot require the masters of British vessels, when fishing in Behring's Sea beyond the 3-mile limit, to recognize the law of the United States.

In reply, I am to request that you will state to his Lordship
254 that Sir J. Pauncefote, who has been appointed to succeed Lord Sackville as Her Majesty's Representative at Washington, left London for his post on the 13th instant.

It would, in Lord Salisbury's opinion, be advisable to wait until he has had time to examine into the question on the spot, and to report upon the situation, before making any communication to the United States Government on the subject.

I am, &c.

(Signed) T. H. SANDERSON.

No. 194.

Foreign Office to Colonial Office.

[Extract.]

FOREIGN OFFICE, *April 18, 1889.*

It will be seen, on reference to the correspondence respecting the seizure of Canadian schooners by United States Revenue cutters in Behring's Sea, that Mr. Bayard, in a letter addressed to Her Majesty's Minister at Washington on the 12th April, 1887,* a copy of which accompanied the letter from this Department of the 5th May of that year, stated that "the laws of the United States regulating the killing of fur seals have been in force for upwards of seventeen years, and, prior to the seizure of last summer, but a single infraction is known to have occurred, and that was promptly punished."

On the other hand, Lord Lansdowne, in his despatch of the 27th November, 1886,† of which a copy was forwarded in your letter of the 4th January, 1887, states: "This is, as far as I have been able to ascertain, the first occasion upon which claims of the kind now advanced have been enforced. Sealing-vessels from British Columbia have for some years past frequented the waters of Behring's Sea without molestation."

Lord Salisbury observes, however, that, in the Minute by the Department of Marine and Fisheries, inclosed in Lord Stanley's despatch of the 3rd August, 1888 (of which a copy was forwarded in your letter of the 18th of that month), it is stated that, by the proposed arrangement for a close time, "Canada would lose the enjoyment of a lucrative right long possessed, and this loss would be fatal to the prosecution of the seal industry."

In Lord Salisbury's opinion it would be interesting, with a view to possible further negotiations, to know for how long, and to what extent, Canadian vessels have been in the habit of killing seals in the waters of Behring's Sea before 1886.

I am to request that, in laying this letter before Secretary Lord Knutsford, you will move him to endeavour to obtain such statistical information bearing on these points as can be furnished by the Canadian Government.

No. 195.

Colonial Office to Foreign Office.—(Received April 20.)

DOWNING STREET, *April 20, 1889.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 11th instant, transmitting copies of despatches from Her Majesty's Chargé d'Affaires at Washington relative to the Act of the United States Congress of the 2nd March, 1889, providing for the protection of the salmon fisheries of Alaska, and the Proclamation which has been issued by the President of the United States in pursuance of its provisions.

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* See Inclosure 2 in No. 37. † See Inclosure 1 in No. 22.

In reply, I am to acquaint you, for the information of the Marquis of Salisbury, that Lord Knutsford, while accepting the construction put upon the Act and Proclamation in your letter, would have been glad if an opportunity could have been found of placing that construction officially on record.

I am, &c.

(Signed) R. H. MEADE.

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255 No. 196.

Colonial Office to Foreign Office.—(Received April 30.)

DOWNING STREET, *April 29, 1889.*

SIR: I am directed by the Secretary of State for the Colonies to transmit to you, with reference to your letter of the 18th instant, a copy of a despatch which he has addressed to the Governor-General of Canada inquiring as to the extent to which British Columbian vessels were engaged in seal hunting in Behring's Sea prior to 1886.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure in No. 196.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *April 27, 1889.*

MY LORD: I have the honour to transmit to you, for communication to your Ministers, a copy of a letter from the Foreign Office requesting to be supplied with information as to the extent to which vessels belonging to British Columbia were engaged in seal hunting in Behring's Sea prior to 1886.

I should be obliged if your Ministers could supply the information desired by the Marquis of Salisbury at an early date.

I have, &c.

(Signed) KNUTSFORD.

No. 197.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 13.)

WASHINGTON, *April 26, 1889.*

MY LORD: In reply to your Lordship's despatch of the 13th instant, I have the honour to inform you that I learn on inquiry that the record of the appeal of the schooner "W. P. Sayward" was filed on the 30th of October, 1888, but has not yet been printed. If it is not printed when the case is called the appeal will be dismissed.

But it appears the case will not be reached for call for some three years, the business of the Supreme Court of the United States being, as I am told, nearly or quite four years in arrear.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 198.

Colonial Office to Foreign Office.—(Received May 15.)

DOWNING STREET, *May 14, 1889.*

SIR: I am directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquis of Salisbury, a copy of the Annual Report of the Canadian Department of Fisheries for the year 1888.

I am to call attention to the remarks at p. 241 as to the seal-hunting in Behring's Sea.

I am, &c. (Signed) ROBERT G. W. HERBERT.

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256 [Inclosure in No. 198.]

Return showing the Number of Vessels, Boats, and Men engaged in the Marine Fur Fishery of British Columbia, with the Products and Value, for the Season of 1888.

Names of vessels.	Names of owners.	Tonnage.	Number of boats.	Number of men.	Number of seals in British Columbia.	Number of seals in Behring's Sea.	Total number of seals.	Total value of seals.
Penelope	J. J. Gray	69	5	20	805	900	1,705	$17,050
Mary Ellen	A. McLean	69	14	30	1,410	1,937	3,347	33,470
Juanita	Hall and Gospel	40	13	28	177	1,017	1,194	11,940
Mountain Chief	B. Jacobson	26	6	10	400	825	1,225	12,250
San José	J. S. Lee	52	4	16	107	.....	107	1,070
Sapphire	E. B. Moroni	124	9	22	1,200	.....	1,200	12,000
Viva	Carne and Munsie	92	5	21	806	2,069	2,875	28,750
Black Diamond	Gutman and Frank	81	9	19	231	863	1,096	10,960
Mary Taylor	J. D. Warran	42	13	24	392	.....	392	3,920
Helgeron	American	61	6	24	17	.....	17	170
Triumph	D. McLean	97	12	9	.....	2,470	2,470	24,700
O. S. Fowler	Wm. Bendt	34	2	12	230	.....	230	2,300
Annie C. Moore	Chas. Hackett	112	7	22	.....	715	715	7,150
Lily	Gutman and Frank	68	22	20	93	.....	93	930
Pathfinder	Carne and Munsie	66	9	21	600	650	1,250	12,500
Adele	F. Rutz	50	8	19	392	822	1,214	12,140
Rosey Olsen	Wm. Olsen	33	3	13	100	500	600	6,000
Annie	Jas. Lafflin	25	3	11	156	1,039	1,195	11,950
Maggie Mc	John Dodd	71	5	20	125	1,299	1,424	14,240
Favourite	Chas. Spring	79	12	27	309	1,834	2,134	21,340
	Total							244,830
Estimate of skins purchased from Indians					3,500	.....	3,500	35,000
" sea otter-skins purchased from Indians					100	.....	100	7,500
" hair seals purchased from Indians					3,500	.....	3,500	2,625
Schooner "O. S. Fowler," walrus-skins					.....	21	21	378
" " 250 ivory, at 40 c					.....	.....	.....	100
Grand total marine furs and products					.....	.....	.....	280,433

The decrease in the fur seal catch in Behring's Sea is still more noticeable; it was caused principally by the unsettled state of affairs with the American Government, several of the schooners being afraid to enter these waters at the risk of seizures.

A great deal has been written on the life and habits of the fur seal. It is contended by some that all the fur seal in the North Pacific have their rookeries on St. Paul and St. George Islands in Behring Sea. Others claim that many of the fur seals of the Pacific never enter Behring's Sea, but pup on large kelp fields in the ocean, and may perhaps have regular hauling grounds outside of Behring's sea. Extracts from a Circular of C. M. Lamsen and Co., of London, England, will give the reader some idea of where the fur seals are caught. From October 1886 to January 1888 the following number of skins were sold:

	Seal-skins.
North-West Pacific Coast	43,687
Lobus Island	30,463
Alaska	204,033
Copper Island	100,880
Japan	9,856
Cape Horn	6,926
South Sea	200
	396,045

It has been estimated that 16,000,000 seals haul out annually on St. Paul, and 3,000,000 on St. George Islands. The Commercial Alaska Company controls these and other islands by lease from the American and Russian Governments. I am of opinion that many fur seal pup on kelp fields along the British Columbia coast. I have had reliable information from practical hunters and fishermen who bear me out on this point. Morris Moss, of Victoria, states that during the year 1870 he was engaged trading on the coast near Bella Bella during the months of March and April, when he saw hundreds of fur seal pups from 3 to 5 months old, which had become separated from their mothers, and on account of a heavy storm were blown on shore and caught by the natives. Captain Alexander McLean, of Victoria, states that he killed a number of fur seal pups off Cape Cook, which had likewise been blown ashore during a storm. James G. Swan's Report for 1880 and 1883 goes to show
257 that the Indians of Cape Flattery capture fur seal pups each season, and keep them as pets around the camps. It is impossible that these pups may have come from Behring's Sea at that age, as Mr. Elliott states they do not leave the islands before the month of November, and those that Mr. Swan speaks of are caught early in the spring. The majority of our hunters contend that there are over 7 per cent. of pups in the entire catch of fur seals on the coast; while in Behring's Sea the catch does not exceed 1 per cent. But they cannot deny the fact that over 60 per cent. of the entire catch of Behring's Sea is made up of female seals.

No. 199.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 3.)

WASHINGTON, *May 24, 1889.*

MY LORD: I have the honour to inform your Lordship that the steamer "Rush," of the United States Revenue Service, has been ordered to Behring's Sea in order to protect the fur-bearing animals in the territory of Alaska or in the waters thereof, in accordance with section 1956 of the Revised Statutes.

The Revenue steamer "Bear," now fitting at San Francisco, will shortly follow the "Rush," in order to assist her in this work.

I have, &c.

(Signed) J. PAUNCEFOTE.

[Inclosure in No. 199.]

Extract from the "Washington Post" of May 24, 1889.

THE ALASKAN SEAL FISHERIES.—Secretary Windom yesterday signed the sailing orders of the Revenue-steamer "Rush," directing that she sail immediately upon receipt of her instructions to Onnalaska, and then to cruize diligently in Behring's Sea for the purpose of "warning all persons against entering such waters for the purpose of violating section 1956 of the Revised Statutes, and arresting all persons, and seizing all vessels, found to be, or to have been, engaged in any violation of the laws of the United States therein."

Section 1956, Revised Statutes, referred to above, provides that "no person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska territory, or in the waters thereof; and every person guilty thereof shall, for each offence, be fined not less than 200 dollars nor more than 1,000 dollars, or imprisoned not more than six months, or both, and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seal, under such regulations as he may prescribe, and it shall be the duty of the Secretary to prevent the killing of any fur-seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law, nor shall he grant any special privileges under this section."

The Commanding Officer of the "Rush" is also furnished with copies of the Act of the 2nd March, 1889, and the President's Proclamation of the 21st March, 1889, regarding the protection of the seal and salmon fisheries of Alaska, and instructed

to enforce their provisions. The "Rush" is now at San Francisco ready for sea, and will sail immediately upon receipt of the orders, which were mailed at Washington yesterday afternoon. The Revenue-steamer "Bear," which is now fitting out at San Francisco for an expedition to Point Barrow, Alaska, has also been designated to assist in the protection of the Alaskan fisheries, and will follow the "Rush" in a short time. Her orders are now being prepared at the Treasury Department.

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258 No. 200.

Consul-General Booker to the Marquis of Salisbury.—(Received July 8.)

NEW YORK, *June 28, 1889.*

MY LORD: I have the honour to inclose extracts, for your Lordship's perusal, from the New York "Evening Post" of yesterday, containing an interesting letter on the Behring's Sea question.

I have, &c.

(Signed) WM. LANE BOOKER.

[Inclosure in No. 200.]

Extract from the New York "Evening Post" of June 27, 1889.

THE BEHRING'S SEA QUESTION.

SALEM, MASSACHUSETTS, *June 21, 1889.*

To the Editor of the "Evening Post."

SIR: Since the rejection of the Treaty of February 1888 with Great Britain, the public has heard very little of fishery troubles on the old debatable ground of the north-west Atlantic, but there is every prospect that the absence—obviously a merely temporary absence—from public discussion of the well-gnawed bone of contention will, in a measure, be made good by taking up as a topic the analogous question pending between the United States and Great Britain concerning the seal fisheries in the north Pacific, or, as our statesmen and writers prefer, for a very shrewd reason, to say, in "Behring's Sea."

Several British vessels were seized in 1886 and 1887 by United States Revenue-cruizers for sealing in Behring's Sea (a part of the Pacific Ocean, as I shall show presently), far outside of the 3-mile shore belt, and these vessels were condemned by the United States District Court at Sitka. So far as I am aware, there is no official publication showing the position taken by our Government in this matter, so that we must fall back on statements in the press.

The "New York Herald" of the 13th October, 1887, published what purported to be a *verbatim* copy of the "brief understood to have been prepared at Washington and recently filed in the Court at Sitka by Mr. A. K. Delaney as counsel for the United States Government." The defendant's name is not given there, but obviously it is the brief against one of the British vessels seized in 1887, and probably substantially the same brief was used against all of them. In a leader in the same issue the "Herald" refers to this brief as that against certain British vessels charged with violating our rights. There is no reason to doubt the genuineness of this paper, and in the absence of other evidence, we may take it as a trustworthy guide to the position taken by our Government. It is there stated that the case is based on section 1956 of the Revised Statutes of the United States, providing that "no person shall kill any otter, &c., or other fur-bearing animal, within the limits of Alaska Territory or in the waters thereof;" that the offence is charged to have been committed "130 miles north of the Island of Ounalaska, and, therefore, in the main waters of that part of the Behring's Sea ceded by Russia to the United States."

It is further stated that the defendants demur on the ground that the Court has no jurisdiction, as the alleged offence was committed beyond the limit of a marine league from the shores of Alaska, and that the Act under which the defendants were arrested is unconstitutional in so far as it restricts the free navigation of the Behring's Sea for fishing and sealing purposes beyond the limits of a marine league from shore; that the demurrer presents squarely the questions:

1. The jurisdiction of the United States over Behring's Sea.

2. The power of Congress to legislate concerning those waters.

Then follows the argument, opening as follows:

"The fate of the second of these propositions depends largely upon that of the first, for if the jurisdiction and dominion of the United States as to these waters be not sustained, the restrictive acts of Congress must fall . . . ."

This argument offers great temptation to submit it to criticism in detail, but I shall confine myself to the main issue.

259 It states that international law recognizes seas and waters of a certain kind as "landlocked or inland," and accords dominion and jurisdiction over them to individual nations. Quotations from the text-books are then given to define the physical conditions required by international law to constitute such landlocked or inland sea. These conditions may be summed up in Vattel's axiom: "It must be entirely surrounded by the territory of the nation claiming jurisdiction, and must have no other communication with the ocean than by a channel of which that nation may take possession."

All perfectly true. The trouble is merely in the "application on't" to the case in point. The boundaries of Behring's Sea are correctly given. Among them are enumerated the Peninsula of Kamtchatka and Eastern Siberia, and then it is said, "It will not be denied that at the time the United States acquired the territory of Alaska the waters of the Behring's Sea washed only the shores of Russian territory!"

Precisely. But, as Russia ceded to us *only a part* of such shores, and as she retained as her own a great part of them, we are not in possession of *all the shores*, and, consequently, we cannot claim "dominion and jurisdiction" over Behring's Sea under the above doctrine.

Now as to the other condition shown to be the second requisite of a closed or landlocked sea—absence of communication with the ocean, except by a channel of which we, as claimants of dominion, might take possession. That is purely a geographical question, to be settled by reference to authentic Maps or Charts. The reliability of the Charts issued by our Hydrographic Office at Washington will not be questioned, so let us consult its Chart No. 68, edition of May 1888, entitled "Behring's Sea and Arctic Ocean." Let us, for brevity's sake, assume, what is, however, not true in fact, that the chain of islands generally called the Aleutian, as far as they go, answers all the requirements of international law as an inclosing barrier. We then need only examine the sea to the westward of the most western of said islands, the one called Atton. The said Chart shows only two islands between Atton and the coast of Kamtchatka, and these intervening islands are Russian territory. The respective positions are laid down in said Chart as follows:

	° ′	° ′
Atton (most western United States territory), west extremity of	52 57 N.	172 30 E.
Copper Island (nearest land eastward), south-east extremity of	54 35 N.	168 05 E.
Copper Island (north-west), extremity of	54 55 N.	167 24 E.
Behring's Island, nearest land eastward to Copper Island		
Point nearest to Copper Island, Cape Chitron	54 55 N.	166 37 E.
Point nearest to Kamtchatka coast, Sea Lion's Head	55 16 N.	165 40 E.
Kamtchatka, point nearest to Behring's Island	56 06 N.	163 20 E.

The usual method of nautical calculation shows the shortest distances between the above points to be as follows, to wit, between—

Atton and Copper Island	183	Nautical miles and a fraction over in every case.
Copper Island and Behring's Island	27	
Behring's Island and Kamtchatka	23	

The narrowest of these channels would admit of the passage of a fleet of over 100 vessels sailing abreast in a single line, even if deployed with a quarter of a mile between each two vessels!

Are these channels such as a nation can be supposed to be able to take possession of?

In all other parts of the world our people have always been the strenuous champion of the freedom of the seas, and have even claimed (see Senate, Rep., No. 1683, 49 Cong. 2 sess., p. 5) that straits as narrow as the Gut of Canso (1 to 1½ miles wide) leading to seas accessible by other channels of sufficient width, were free to our use. On this principle every one of the many channels between the Aleutian Islands, and connecting the sea south of them with that north of them, is free to all the world. The best of all of them, the Amoughta Pass, is about 41 miles wide! Imagine the ridicule, the vials of wrath that our publicists and diplomatists would pour out on any luckless wight who, stealing our thunder, should undertake to prove that the Gulf of St. Lawrence, for instance, was by international law a British closed sea, landlocked and inland. And yet logically his position would be infinitely stronger

than ours is, for that gulf, insignificant in extent compared with Behring's Sea, is actually inclosed by British territory, and has only three channels of communication with the Atlantic!

260 There is a story of a naval captain who, on being overhauled by his superiors for not returning a salute fired in honour of his flag, replied that he had a whole number of good reasons for the omission, to wit: firstly, having no powder, and who was thereupon immediately cut short by the remark, "That will do!" You may say the Attorney of the United States himself has rested his case on the ground that Behring's Sea is a landlocked and inland sea. The contrary has now been demonstrated; consequently the matter is settled, and nobody cares to hear any more on so tedious a subject.

But there are always plenty of good people in the world to whom that would not be conclusive by any means, and who can only be convinced by having every one of the other allegations, however hopelessly involved in the preceding, or however absurd or irrelevant in themselves, disproved separately and distinctly. These allegations are, partly in express terms, partly by implication, that (1) Behring's Sea and the Pacific Ocean are separate and different seas; (2) that Behring Sea is not a part of the Pacific, and Behring's Sea was the only interior sea of the North American coast, and was held by Russia; (3) that Russia by the Treaties of 1824 and 1825 (with the United States and Great Britain respectively) abandoned her prior claim to jurisdiction over the Pacific, but did not surrender jurisdiction over Behring's Sea, and that consequently such jurisdiction descended to the United States through the cession to us of all Russia's rights by the Treaty of 1867.

In support of these assertions, the "argument" asks triumphantly if there was a challenge of Russia's jurisdiction over Behring's Sea, why was it not settled in the Treaties? Why was a ten years' limit of mutually free navigation in the interior seas, gulfs, harbours, and creeks of each other on the North American coast accepted by the United States and by Great Britain, if Behring's Sea—declared by the argument to be the only interior sea—was part of the Pacific or belonged to the high seas, and, therefore, free to all? Why was the term inland sea used?

The answer to it all is the same as that to so many other conundrums—"The boy lied."

Behring's Sea was and is a part of the Pacific.

The term Behring's Sea was unknown at the time the Treaties of 1824 and 1825 were made, and, therefore, was not, and could not be, used in them. When a distinctive name was employed for that sea, they called it in those days "The Sea of Kamtchatka"—the argument itself admits this by saying "formerly known as the Sea of Kamtchatka." The term Behring's Sea is absent not only from these Treaties but from all the prior diplomatic correspondence and from all contemporaneous writings. I could fill a page with the mere titles of the encyclopædias, gazetteers, and geographical reference books, &c., published up to 1825, and for many years after, in which I have looked, and looked in vain, for Behring's Sea. The name Behring, in a variety of spellings, occurs in all, as that of a navigator, of a bay on our coast (but far to the east of Behring's Sea), of an island, of a strait, but never, until long after 1825, as that of the sea, now so called. The present application of that name is of much more recent origin, and its general adoption has been gradual and slow; but that this separate name should or could divest this sea of its old quality of forming part of the Pacific Ocean is an idea unknown to the scientific world. Look into any old or modern reference book, under "Behring's Sea" and "Pacific Ocean," and you will always find the first defined as a part of the Pacific Ocean, and this as beginning at Behring's Strait, thus including the first. I found but one exception to this, viz., the second edition of "Appleton's Encyclopædia," (1873), which says that the Pacific is bounded on the north by the Aleutian Islands (Behring's Sea not being properly oceanic in its character), and this is in contradiction to the definition of Behring's Sea, in the same edition, that being said to be part of the Pacific. However, the earliest edition of the same work (1858) makes the Pacific extend from Behring's Strait to the Antarctic circle, and it again proves my assertion. Our own early official Charts, viz., Pilot Charts of Lieutenant M. F. Maury, United States Navy (United States Hydrographic Office, 1850), sheets Nos. 2 and 3, series "A," covering the present Behring's Sea, are entitled "North Pacific;" the name Behring's Sea does not occur in them; but on No. 2 the names of "Sea of Ochotsk" and "Sea of Sachalien" are given to those divisions of the Pacific. In the official documents and in the Congressional debates about giving aid to Perry McD. Collins (February 1862, *et seq.*) for his telegraph between Asia and America viâ Behring's Straits, enacted the 1st July, 1864, Pacific Ocean is the term generally, if not exclusively, used when reference is made to the sea now known as Behring's. But to make assurance doubly sure, I applied for an opinion on the question to the most eminent living authority in matters geographical, Professor Dr. H. Supan, editor of "Petermann's Mitteilungen," who likewise says that *all* geographers consider Behring's Sea a part of the Pacific. I can submit the correspondence if desired.

261 A look at a Map or Chart of the region in question (which please to recollect embraces not only the American shore north of the Peninsula of Alaska, but that to the eastward and southward of it, whether Russian, British, or of the United States) will show that so far from Behring's Sea being the only inland sea there, this region is particularly full of peninsulas and whole archipelagoes of islands, and is consequently also full of interior seas, gulfs, harbours, and creeks, and it is for that very reason that they were made the subject of express stipulations in the said Treaties.

No less untrue than the preceding assertion of the argument about the "only inland sea" is the other, that the Treaties of 1824 and 1825 were a sort of give-and-take arrangement as regards marine dominion; that Russia abandoned a part of it only, and had the balance conceded to her. Secretary Adams, in his instructions to our Minister at St. Petersburgh of the 22nd July, 1823 (see American State Papers, "Foreign Relations," second series, folio edition, vol. v, p. 436), after setting forth Russia's claims as including the right to interdict the navigation and the fishery of all other nations to the extent of 100 miles from the coasts of Asia, from 45° north (round) to 51° north of the American Continent, says emphatically:

"The United States can admit no part of these claims. Their right of navigation and of fishery is perfect, and has been in constant exercise from the earliest times, after the peace of 1783, throughout the whole extent of the South Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions which, so far as Russia's rights are concerned, are confined to certain islands north of the 55th degree of latitude, and have no existence on the coast of America."

And when you remember that in those days there was no such division of the Pacific between Pacific and Behring's Sea as we, or those who do the talking for us, now claim, it is perfectly clear that we and Great Britain, in the respective Treaties of 1824 and 1825, carried our point for free navigation and fishery to its fullest extent by having it acknowledged therein as extending to "any part of the great ocean commonly called the Pacific Ocean or South Sea." And further to show that this was also Russia's view of the meaning of said Treaties, let me refer to a passage in Bancroft's "History of the Pacific State," vol. xxviii, p. 583. In 1842 the Russian American Company urged the Russian Government to send armed cruizers for the preservation of Behring's Sea as a *mare clausum*, on account of the great extent of American whale-fishing there; but the Russian Ministry replied that the Russo-American Treaty gave to Americans the right to engage in fishing over the whole extent of the Pacific Ocean.

It is hardly necessary to say anything more. To assert in the face of all this that our part of Behring's Sea is a closed sea, is nothing else than a parody on the old headland-line doctrine, a line, in this case some 900 miles long, from Cape Prince of Wales to Atton, and inclosing a "bay" stretching, at its greatest extent, over about 30 degrees of longitude. This may recommend itself to lovers of a "big thing," but legally and logically it is no less absurd than Russia's still longer headland-line of 1821, which Secretary Adams wiped out.

Perhaps it may be pleaded on behalf of the Judge at Sitka, the Hon. Leff. Dawson, that he is only a District Judge, and that he was misled by the Washington brief; but what can be said for our superior officials, the Secretaries of State and of the Treasury? Were and are they too misinformed on the geography, the history, and even the law governing these cases?

From time to time we have been told by the newspapers that the British vessels seized have been released, and then again that it has not been done. It seems to be all a muddle.

The newspapers also say we must, in self defence, prevent any one but the Alaska Commercial Company from sealing in Behring's Sea, because that Company pays our Government a handsome interest on the cost to us of Alaska; that the seals there are all ours because bred on territory of ours, and that free sealing would soon exterminate these animals. Imagine such sophisms and such untruth submitted to the Supreme Court.

The fur-seal are not *all*, or even *nearly all*, bred on our territory. Mr. H. W. Collins, in his Report on the seal islands of Alaska, published officially as part of the United States Census of 1880, vol. xiii, No. 42, Part VIII, says, on p. 6, that they also breed on Copper and Behring's Islands, both Russian, and both leased by our Alaska Commercial Company; and on p. 113, that 48,504 of these animals were taken on these Russian islands. But if the seals were all American-born it would make no difference in law, as creatures roaming about the high seas are no man's property, except his who catches them. That "free sealing" might entail extermination of these creatures in the North Pacific, as it has already done elsewhere, is probable, but this gives us no right to make preventive laws, even of the mildest kind, for
262 others than American citizens and for localities other than our own territory.

Even the Washington brief admits this. International agreement, and not the *ipse dixit* of any single nation, is the proper remedy, if there be one. That free

sealing might, and probably would, injure financially an American corporation, eventually, perhaps, even our Government, may be deplorable, but will not be accepted as our justification for interference with the rights of other nations, involving the infliction of injustice on individual foreigners.

The whole course of our Government, its action as well as its inaction, in this matter is open to severe criticism. It looks as if, in this matter, we repudiated all our traditional and sterling maxims of international obligations, as if we had substituted for our old trusty and trusted moral compass a new one, and that one subject to the most astounding variations, according to locality—variations eclipsing in scope any similar performance of the mariner's compass. Within certain moderate limits, there may be as good local reasons for the variations of the moral compass as for those of the mariner's instrument; but an absolute turning end for end, an inversion of north and south, of right and wrong, the claim that a general principle of law has one effect here and the opposite effect elsewhere, will not be accepted, in either navigation or law, by either experts or merely common-sense people. When the captain finds that the card of his compass calls that north which the sun in the heavens proves to be the south, you cannot fool the captain into believing that compass. He will tell you that, though the needle is as right as ever, somebody has been "monkeying" with the card. He will at once correct the falsification. The sooner Uncle Sam goes and does likewise in this Pacific contention the better for all concerned, and particularly for the international reputation of our country as an upright, a fair-dealing, a just people.

(Signed) ROBERT RAYNER.

No. 201.

Colonial Office to Foreign Office.—(Received July 27.)

DOWNING STREET, *July 27, 1889.*

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, with its inclosures, urging the desirability of such steps being taken as will secure reparation for the damages sustained by sealers of the Dominion, in consequence of the seizure of Canadian sealing-vessels in Behring's Sea, and the withdrawal of the claim advanced by the Government of the United States to exclusive jurisdiction over the waters of that sea.

As Lord Salisbury is aware that a considerable delay has occurred in the presentation of these claims, Lord Knutsford would suggest that the claims should be presented to the United States Government at an early date, unless there are strong reasons of policy against this course.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 201.]

Lord Stanley of Preston to Lord Knutsford.

NEW RICHMOND, P. Q., *June 12, 1889.*

MY LORD: With reference to previous correspondence on the subject of the seizures of Canadian sealing-vessels in Behring's Sea, I have the honour to forward to your Lordship a copy of an approved Minute of my Privy Council concurring in a Report submitted by the Minister of Marine and Fisheries, who deals fully with the whole question of these seizures, and strongly urges the desirability of such steps being taken by Her Majesty's Government as shall secure full reparation for the damages sustained by Canadian sealers, and the retraction of the claim advanced by the United States Government to exclusive jurisdiction over the waters of Behring's Sea.

I have, &c.

(Signed) STANLEY OF PRESTON.

263 [Inclosure 2 in No. 201.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 4th June, 1889.

On a Report, dated the 27th May, 1889, from the Minister of Marine and Fisheries, submitting the following résumé and recommendation relating to the Canadian vessels seized in or ordered away from the Behring's Sea by United States authorities.

So far back as the month of September 1886, the Canadian Government first called attention of the Imperial authorities to this action on the part of the United States, and in a Minute of Council approved by your Excellency on the 29th November, 1886, the desire was then expressed that immediate reparation should be demanded for such wanton and unjustifiable acts.

On the 29th November, 1887, a Minute of Council was approved by your Excellency, in which the revised claims of the owners of the schooners "Thornton" and "Carolena" are stated in detail, and directing that the claims should be forwarded to the Secretary of State for the Colonies for transmission to the United States Government.

On the 20th December, 1887, a further Minute of Council was adopted having reference to the claim of the owner of the schooner "Onward" and recommending that a claim for damages be forwarded in a similar manner to the Government of the United States.

These vessels the Minister is informed are still laid up on the beach at Ounalaska, and are in an advanced stage of decay.

On the 30th December, 1887, a subsequent Minute was adopted by the Privy Council, having reference to the claim of the owner of the schooner "Favorite," which vessel was, on the 2nd August, 1886, while sealing in Behring, ordered away by the United States Revenue-cutter "Corwin" under threat of seizure. A claim for damages was also transmitted in this case in like manner as in others.

A Report was adopted on the 30th December, 1887, having reference to the seizure of the schooner "W. P. Sayward," 9th July, 1887; "Grace," 17th July, 1887; "Anna Beck," 2nd July, 1887; "Dolphin," 12th July, 1887; "Alfred Adams," 6th August, 1887; and "Ada," 25th August, 1887, and embodied the claims connected therewith which were recommended to be forwarded through the Imperial Government for immediate settlement.

Further revised claims for personal damages, for illegal arrest and imprisonment were forwarded under an approved Minute of Council of the 12th January, 1888, to the Imperial Government in connection with the seizures in the year 1886, as follows:

Schooner "Thornton."	
Hans Guttormsen, master	$4,000
Henry Norman, mate	2,500
Schooner "Carolena."	
James Ogilvie, master	2,500
James Black, mate	2,500
Schooner "Onward."	
Daniel Munroe, master	4,000
John Margotich, mate	2,500

The personal claims of the masters and mates of the vessels seized in 1887 were recommended for transmission by a Minute of Council of the 12th January, 1888, as follows:

Schooner "Dolphin."	
J. D. Warren, master	$2,635
John Reilly, mate	1,000
Schooner "W. P. Sayward."	
George R. Ferey, master	2,000
A. D. Laing, mate	1,000
Schooner "Anna Beck."	
Louis Olsen, master	2,000
Michael Keefe, mate	1,000
Schooner "Grace."	
William Petit, master	2,000
Schooner "Ada."	
Charles A. Ludberg, mate	2,000

264 One vessel was released on the 15th May, 1888, under a bond, viz., the schooner "W. P. Sayward;" the owners of the other vessels (except the "Ada" for which no owner could be found) considered that the appraisement was largely in excess of the value of the vessels.

The Marshal of the United States Court was also of that opinion, and a reappraisement was sought from the American Government but refused.

The Minister has recently been advised that the schooners "Grace," "Anna Beck," "Dolphin," and "Ada" were sold by direction of the United States Government on the 26th March last, the cargoes, supplies, and outfits of all the seized vessels having been previously disposed of.

The Minister further submits that in a despatch from the Colonial Office, under date the 29th March, 1888, stating that the Law Officers of the Crown were of the opinion that "in respect of the schooner 'Favorite,' warned to cease operations under threat of seizure, the simple question is whether the threat was intended to be put into force, and whether she *bonâ fide* ceased to fish in consequence. There can be little doubt that both questions would be answered in her favour, and in her case also, a claim should be pressed, though the measure of damages will be different from that in the case of the other vessels and would, in the absence of special circumstances, be the actual loss occasioned by reason of the interruption of the fishing."

The same despatch referring to the cases of the "W. P. Sayward," "Grace," "Anna Beck," "Alfred Adams," "Dolphin," and "Ada," seized in the Behring's Sea during the season of 1887, says, upon the facts laid before the Law Officers, these seizures were, in their opinion, unwarranted, and the claims for compensation can be pressed.

It may here be mentioned that in the case of the "Alfred Adams" the circumstances are somewhat exceptional. This vessel was seized, and ordered by the United States authorities to report to the United States Marshal at Sitka; instead of which the captain sailed for Victoria, thus escaping detention and loss further than that of being obliged to relinquish his sealing voyage.

The Minister desires to draw attention to the concise and forcible presentation of the Canadian case against the United States contained in the despatch from his Lordship the Marquis of Salisbury to Sir Lionel Sackville West, under date the 10th September, 1887, wherein Lord Salisbury deals with the claim set up by the late Administration of the United States to the authority of that country in the Behring's Sea, under the Treaty of Cession with Russia hereinafter mentioned, including those waters at a distance from land far in excess of the ordinary limit of maritime jurisdiction.

The Marquis of Salisbury, in that despatch, remarks: "Nearly four months have elapsed without any definite information being furnished by the United States Government, as to the grounds of the seizures. My predecessor instructed you on the 8th January last, to express to Mr. Bayard the concern of Her Majesty's Government at the delay, and to urge the immediate attention of the United States Government to the action of the American authorities in their treatment of these vessels and of their masters and crews." And again: "Her Majesty's Government have carefully considered the transcript record of the judicial proceedings in the United States District Court, in the several cases of the schooners 'Carolena,' 'Onward,' and 'Thornton,' which were communicated to you in July, and were transmitted to me in your despatch No. 196 of the 12th of that month, and they cannot find in them any justification for the condemnation of those vessels;" and concluding his despatch his Lordship further stated: "Her Majesty's Government feel sure that in view of the considerations which I have set forth in this despatch, which you will communicate to Mr. Bayard, the Government of the United States will admit that the seizure and condemnation of these British vessels and the imprisonment of their masters and crews were not warranted by the circumstances, and that they will be ready to afford reasonable compensation to those who have suffered in consequence, and issue immediate instructions to their naval officers which will prevent a recurrence of these regrettable incidents."

Three years have now almost passed since the American Government were apprised of the remonstrance on the part of the British Government against the claim set up to exclusive jurisdiction in the Behring's Sea, with practically no result other than the virtual and continual exclusion of Canadian sealers from those open waters by the Government of the United States.

Constant inquiry has been made of the Canadian Government as to the present condition of the claims of British subjects in Canada for the damage and loss sustained by the unjustifiable action of the United States authorities.

The Minister regrets that he has been able to give no other answer to these
265 inquiries than to say that the claims are still being pressed upon the attention of the United States Government, but that no settlement has been arrived at.

The Minister of Marine and Fisheries is informed that the failure to obtain satisfaction has already resulted in the financial embarrassment and failure of Captain Warren, of Victoria, British Columbia, one of the owners most largely interested in the seized vessels: while the sealing industry, so far as Canada is concerned, which was heretofore prosecuted with considerable advantage to labour and capital, has become entirely paralyzed.

He further observes that while the argument advanced by the British Government touching the rights of British subjects in the open waters of Behring's Sea has not been met, recent expressions and actions on the part of officials and of the authorities in

the United States touching the Behring's Sea, taken with the seizures of British vessels already referred to, afford a reasonable ground for the belief that the Revenue-cutters of the United States Government in the waters in question will continue to treat these waters as closed. Great damage has therefore not only been sustained, but is now being suffered, by British subjects in consequence of their not daring to risk their persons and property in these waters in the absence, not only of a settlement of the claims already existing, but without any positive assurance from the British Government that, in the event of loss or damage again occurring to them in the open waters of the Behring's Sea at the hands of the United States authorities, ample redress will be obtained therefor.

The Minister observes that the lease granted by the United States to the Alaska Commercial Company in August 1870 gave that Company the right to take seals on the Islands of St. George and St. Paul only.

It appears that it is claimed by the United States authorities that the supply on these islands began to diminish in consequence of the number killed and taken in the open sea.*

In 1879 a Notice was published by the Treasury Department at Washington, calling attention to section 1956 of the Revised Statutes of the United States for the purpose apparently of prohibiting American citizens from interfering with the rights of the Alaska Commercial Company under its Contract with the United States.†

Notwithstanding the statement in the Report of the Committee of the House of Representatives‡ hereinafter referred to, "that American citizens respected the law and the published notice of the Secretary of State of the Treasury, and made no attempt to take seas," the list of seizures appended to that Report§ shows that an American schooner was seized in 1886 and seven American schooners were seized in 1887 for the violation of the section of the Revised Statutes mentioned in the Notice.

The bold attempt of the United States to make Behring's Sea a *mare clausum* occurred in 1886 by the seizure of the British schooners "Thornton," "Carolena," and "Onward."

It will be remembered that in 1887 Mr. Bayard wrote to Sir L. S. Sackville West referring to the Alaskan waters and the Regulations and Orders to United States vessels to protect them as follows:

"The Laws of the United States in this behalf are contained in the Revised Statutes relating to Alaska in sections 1956 to 1971, and have been in force for upwards of seventeen years.

"The question of instructions to Government vessels in regard to preventing the indiscriminate killing of fur-seals is now being considered, and I will inform you at the earliest day possible what has been decided, so that British and other vessels visiting the waters in question can govern themselves accordingly."

The Minister is not aware that any information has been communicated by the Secretary of State Department of the United States Government as promised, "so that British and other vessels visiting the waters in question could govern themselves accordingly," but the following Circular appears to have been issued in Washington in the year 1888:

"TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
"*Washington, D. C., March 5, 1888.*

"DEAR SIR: Referring to the Department's letter to you of the 16th March, 1886, concerning the scope of the jurisdiction of the United States over the waters of the territory of Alaska, and the prevention of the killing of fur-seals and other fur-bearing animals within such, and as described by Chapter 3 of Title 23 of the Revised Statutes, you are again requested to give publicity to the matter, so
266 that any parties who may be contemplating the fitting out of expeditions to kill fur-seals in the said waters, may have due and timely notice of the requirements of the Statute in the premises, as construed by the Department.

(Signed) "L. H. MAYNARD,
"*Assistant Secretary.*

"COLLECTOR OF CUSTOMS, *San Francisco, California.*"

Attention is called to the last words of the foregoing Circular.

The "construing of the Department" may be ascertained by the seizures under consideration.

The Minister would further draw attention to the Report of the Governor of Alaska for the year 1888,‖ wherein he argues that the monopoly of the seal fishery in Behring's Sea will be lost if the Government of the United States does not assert exclusive jurisdiction beyond the 3-mile limit.

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* Report No. 3883 H. R., 50 Congress, Session 2, Appendix (A).
† Appendix (B), April 21, 1879.
‡ Report No. 3883 H. R., 50 Congress, Section 2, p. 5, Appendix (A).
§ *Appendix* (C), Exhibit C, to above Report.
‖ *Appendix (D)*, "Report of Governor of Alaska for fiscal year 1888."

In this Report, after expressing his fear that the British sealing-vessels will again visit the open waters of Behring's Sea, and capture seals, the Governor calls for an announcement of the "policy and determination of the Government in the matter of their protection."

Subsequently, and during the 50th Session of the House of Representatives, the Committee on Marine and Fisheries was directed "to fully investigate and report upon the nature and extent of the rights and interests of the United States in the fur-seals and other fisheries in the Behring's Sea in Alaska; whether and to what extent the same had been violated: and by whom: and what, if any, legislation is necessary for the better protection and preservation of the same."

The Committee reported * upholding the claim of the United States to jurisdiction over all waters and land included in the Treaty of Cession by Russia to the United States, and construing different Acts of Congress as completing the claim of national territorial rights to cover the open waters of Behring's Sea outside of the 3-mile limit.

The concluding portion of the Report, among other things, states as follows:

"That the chief object of the purchase of Alaska was the acquisition of the valuable products of the Behring's Sea.

"That at the date of the cession of Alaska to the United States, Russia's title to Behring's Sea was perfect and undisputed.

"That by virtue of the Treaty of Cession the United States acquired complete title to all that portion of Behring's Sea situated within the limits prescribed by the Treaty.

"The Committee herewith report a Bill† making necessary amendments of the existing Law relating to these subjects, and recommend its passage."

Herewith appended is a copy of the Bill H. R. 12,432, introduced as directed by this Report, together with an extract from the "Congressional Record" relating to the same.‡

The Proclamation of the President of the United States was issued on the 21st March, 1889, of which a copy is appended to this Report.§

This Proclamation takes the place of the Notice already quoted, first reciting section 1,956 of the Revised Statutes and then section 3 of the Act, entitled "An Act to provide for the Protection of the Salmon Fisheries of Alaska,"‖ which is as follows:

"Section 3. That section 1,956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominion of the United States in the waters of Behring's Sea, and it shall be the duty of the President at a timely season in each year to issue his proclamation and cause the same to be published for one month at least in one newspaper (if any such there be) published at each United States port of entry on the Pacific Coast warning all persons against entering the waters for the purpose of violating the provisions of the said section, and he shall also cause one or more vessels of the United States to diligently cruize in the said waters and arrest all persons and seize all vessels found to be or to have been engaged in any violation of the Laws of the United States therein."

Then follows the warning as in Appendix (marked E).

The Minister desires to bring to the immediate notice of the British Government the foregoing to show that while the wrongs inflicted by the American authorities upon subjects of Her Britannic Majesty still go unredressed, instead of withdrawing from the position assumed by the United States in 1886, the Government of that country threatens to renew the illegal acts complained of.

267 Under these circumstances it is not surprising that the public mind in Canada has become excited if not alarmed by even the appearance of delay in obtaining full compensation for the injuries done to British subjects residing in this portion of the Empire.

Adverting again to the Report of the Committee on Marine and Fisheries of the House of Representatives, the Minister does not deem it necessary to review all the conclusive answers which have been given to the ground taken by said Committee, and he is glad to recollect that the British Government has never entertained doubt regarding the absence of the slightest justification for the seizure of the Canadian vessels.

He may, however, be permitted to refer to the argument of the Committee of Marine and Fisheries before adverted to.

The contention of the Committee was that the only question ever raised between Russia, England, and the United States regarding maritime jurisdiction in the Pacific had reference to a section of the coast of the North Pacific Ocean, and entirely remote from Behring's Sea.

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*Report No. 3883, 50 Congress, Section 2, Appendix (A), March 30, 1869.
†Bill, H. R. 12,432.
‡Appendix (A).
§Proclamation, March 21, 1889, Appendix (E).
‖Approved, March 2, 1889.

Upon this the Minister observes that the distinguished American jurist, Chancellor Kent, did not so construe the letter of Mr. Adams.* On the subject of *mare clausum* he says in his Commentaries:†

"The claim of dominion to close or narrow seas is still the theme of discussion and controversy. Puffendorf admits that in a narrow sea the dominion of it, and the right of fishing therein, may belong to the Sovereigns of the adjoining shores.

"According to the current of modern authority, the general territorial jurisdiction extends into the sea as far as cannon-shot will reach and no farther, and this is generally calculated to be a marine league, and the Congress of the United States have recognized this limitation by authorizing the District Courts to take cognizance of all captures made within a marine league of the American shores."

And with reference to the letter of Mr. Adams, he further says:

"The claim of Russia to sovereignty over the Pacific coast north of the 51st degree of latitude as a close sea was considered by our Government in 1822 to be against the rights of other nations."

In Regulations under the Russian Ukase of 1821, which led to the correspondence referred to, Russia expressly pretends to grant exclusive commercial and fishing rights to Russian subjects "from Behring's Straits to the 51st degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring's Strait to the south cape of the Island of Urup, viz., to 45° 50′ northern latitude."

Criticizing this, Mr. Adams said:‡

"To exclude the vessels of our citizens from the shores beyond the ordinary distance to which the territorial jurisdiction extends has excited still greater surprise."

The letter of the 2nd April, 1822, from Mr. Poletica to Mr. Adams especially shows that the long controversy from 1822 to 1868 between the Russian and American Governments was not confined, as the Committee of Marine and Fisheries says, "to that section of the coast and waters of the North Pacific Ocean between the 51st parallel of north latitude and Mount St. Elias and east of the 141st meridian," since in it, after endeavouring to prove the title of Russia to the north-west coast of America from Behring's Straits to the 51st degree of north latitude, Mr. Poletica says:

"In the same manner the great extent of the Pacific Ocean at the 41st degree of latitude cannot invalidate the right which Russia may have of considering that part of the ocean as close. But as the Imperial Government has not thought fit to take advantage of that right, all further discussion on this subject would be idle."

Reference can again be made to the letter of Mr. Adams to Mr. Poletica,§ wherein he stated:

"With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea in latitude 51° north is not less than 90° of longitude, or 4,000 miles."

And to the letter of Mr. Adams to Mr. Middleton,‖ the American Representative in Russia, wherein he remarks:

"From the tenour of the Ukase, the pretensions of the Imperial Government
268 extend to an exclusive territorial jurisdiction from the 45th degree of north latitude, on the Asiatic coast, to the latitude of 51° north, on the western coast of the American continent, and they assume the right of interdicting the navigation and the fishery of all other nations to the extent of 100 miles from the whole of that coast.

"The United States can admit no part of these claims. Their right of navigation and of fishing is perfect and has been in constant exercise from the earliest times, after the Peace of 1783, throughout the whole extent of the Southern Ocean, subject only to the ordinary exemptions and exclusions of the territorial jurisdictions, which, so far as Russian rights are concerned, are confined to certain islands north of the 55th degree of latitude and have no existence on the continent of America."

Subsequently Mr. Forsyth, Secretary of State at Washington, wrote Mr. Dallas,¶ from which is extracted the following passage:

"The United States, in agreeing not to form new establishments to the north of latitude 54° 40′ north, made no acknowledgment of the right of Russia to the territory above that line. If such an admission had been made, Russia, by the same construction of the Article referred to, must have acknowledged the right of the

* March 30, 1882.
† "Kent's Commentaries," vol. i. pp. 29 and 30, 13th edition.
‡ Mr. Adams to Mr. Poletica, February 25, 1822.
§ March 20, 1822.
‖ July 22, 1823.
¶ November 3, 1837.

United States to the territory south of the designated line. But that Russia did not so understand the Article is conclusively proved by her having entered into a similar Agreement (1825) with Great Britain, and having, in fact, acknowledged in that instrument the right of possession of the same territory by Great Britain. The United States can only be considered as acknowledging the right of Russia to acquire by actual occupation a just claim to unoccupied lands above the latitude 54° 40′ north, and even this is mere matter of inference, as the Convention of 1824 contains nothing more than a negation of the right of the United States to occupy new points within those limits.

"Admitting that this inference is just, and was in contemplation of the parties to the Convention, it cannot follow that the United States ever intended to abandon the just right acknowledged by the 1st Article to belong to them under the law of nations, to frequent any part of the unoccupied coast of North America for the purpose of fishing or trading with the natives."

The Committee having endeavoured to show that the correspondence between 1822 down to the Treaty of Cession with Russia had no reference to Behring's Sea, were compelled to reconcile with their contention the opinion of Mr. Secretary Boutwell, of the Treasury Department at Washington, given on the 9th April, 1872, wherein he held that the taking of fur-seals was not unlawful unless attempted within a marine league of the shore. Accordingly, Mr. Boutwell was called upon to explain his previous letter, and this he has attempted to do.*

It will be observed, however, that, while Mr. Boutwell now claims that his letter of 1872 referred only to that portion of the Pacific south of the Aleutian range of islands, the letter is in reply to a direct question from the Collector at San Francisco, founded upon an extract from a newspaper.

This newspaper expressly states that parties in Australia are fitting out for an expedition for the capture of fur-seals "in Behring's Sea." The Collector incloses this extract to Mr. Boutwell, and suggests that, as the seals reach St. Paul and St. George Islands uniformly by the Ounimak Pass and through the narrow straits near that pass, that a cutter be placed in the region of Ounimak Pass, where it could render most efficient service in preventing foreigners slaughtering fur-seals in the water on their way to the islands.

Mr. Boutwell's letter conveyed his opinion that a Revenue cutter could not protect the seals in the narrow pass referred to, since they went in pairs or singly and not in droves, and covered "a large region of water in their homeward travel to these islands," and he added: "I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose unless they made such attempt within a marine league of the shore."

It is impossible, in the light of the present contention of the United States, to suppose that Mr. Boutwell did not know that the slaughter of the seals in the waters of the Behring's Sea was the fear of the collector and that the suggestion of the latter was to prevent foreign vessels pursuing seals through the pass in question.†

Notwithstanding this explanation, it is to be observed that no vessel of any kind was ever seized by the American Government for violation of section 1956, Revised Statutes before mentioned, until 1884, when outside of the 3-mile limit in Behring's Sea.

The list of seizures produced before the Committee is hereto appended.‡

369 The Minister of Marine and Fisheries feels assured that arguments such as he has referred to cannot do more than aggravate the situation and expose the weakness of a claim of jurisdiction which for nearly three years the Government of the United States have been permitted to maintain against the interests and rights of British subjects.

It is to be regretted that some of the leading Representatives in the Canadian Parliament have already been induced to express the opinion that the British Government would not actively protect the rights of British subjects resident in Canada in cases wherein the United States were concerned, and while he, the Minister, believes such opinion to be entirely erroneous and unfounded, he desires to express the hope that these extreme views may be in nowise strengthened by any unnecessary delay in vigorously and effectively pressing the Canadian claims against the American Government for the illegal and unjustifiable action now under consideration.

The record of the claims having been completed on the 12th day of January, 1888, and then forwarded to the Imperial authorities, the Minister recommends that Her Majesty's Government be urged to take such further steps as will promptly secure from the Government of the United States not only full and ample reparation for the loss and damage sustained, but also a complete and immediate retraction of the claim of that country to exercise exclusive jurisdiction over the waters of the Behring's Sea.

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*Report of Committee on Marine and Fisheries, p. 12, 50 Congress, Session 2, No 3883, Appendix (F).

†Appendix (G).

‡Appendix (C).

The Committee concur in the foregoing résumé and recommendation of the Minister of Marine and Fisheries, and they advise that your excellency be moved to forward a copy of this Minute, together with the inclosures, to the Right Honourable the Secretary of State for the Colonies.

The Committee further advise that the High Commissioner for Canada be directed to place himself in personal communication with the Secretary of State, so as to afford him any further information that may be desired, all which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

APPENDICES.

50th Congress, 2nd session, H. R. 12432.—(Report No. 3883.)

IN THE HOUSE OF REPRESENTATIVES.

JANUARY 29, 1889.—Read twice, recommitted to the Committee on Merchant Marine and Fisheries, and ordered to be printed.

Mr. Dunn, from the Committee on Merchant Marine and Fisheries, reported the following Bill:

A Bill to Amend Section 1963 of the Revised Statutes, and to provide for the better Protection of the Fur-Seals and Salmon Fisheries of Alaska, and for other Purposes.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, that section 1963 of the Revised Statutes of the United States be amended so as to read as follows:

"Section 1963. Within one year prior to the time when the lease heretofore made by the Secretary of the Treasury to 'the Alaska Commercial Company' of the right to engage in taking fur-seals on the islands of Saint Paul and St. George, pursuant to the Act of the 1st July, 1870, chapter 189, or when any future similar lease expires or is surrendered, forfeited, or terminated, the Secretary of the Treasury shall lease to proper and responsible parties for the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, their comfort, maintenance, and education, as well as to the interest of the parties heretofore engaged in the trade and the protection of the fisheries, the right of taking fur-seals on the islands herein named, and of sending a vessel or vessels to the islands for the skins of such seals, for the term of twenty years, at an annual rental of not less than 50,000 dollars, to be reserved in such lease and secured by a deposit of United States bonds to that amount; and the additional sum of not less than 3 dols. 50 c. for each fur-seal skin taken and shipped from the islands of St. Paul and St. George during the continuance of any lease to be paid into the Treasury of the United States, and every such lease shall be duly executed in duplicate and shall not be transferable; and the Secretary of the Treasury is empowered to make all need ful Regulations for the collection and payment of the same, and to secure the comfort, maintenance, education, and protection of the natives of those islands, and also
270 to carry into full effect all the provisions of this chapter, except as otherwise prescribed. And he shall give at least sixty days' notice of the letting of said lease by publication in at least one daily paper published in the cities of Boston, New York, Philadelphia, Baltimore, Washington, Chicago, New Orleans, St. Louis, and San Francisco, inviting bids for the same."

Sec. 2. That section 1956 of the Revised Statutes of the United States was intended to include and apply, and is hereby declared to include and apply, to all the waters of Behring's Sea in Alaska embraced within the boundary-lines mentioned and described in the Treaty with Russia, dated the 30th March, A. D. 1867, by which the Territory of Alaska was ceded to the United States; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation and cause the same to be published for one month in at least one newspaper published at each United States port of entry on the Pacific coast, warning all persons against entering said Territory and waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruize said waters and arrest all persons and seize all vessels found to be, or to have been, engaged in any violation of the laws of the United States therein.

Sec. 3. That section 1969 of the Revised Statutes of the United States be, and the same is hereby, repealed.

Sec. 4. That the erection of dams, barricades, or other obstructions in any of the rivers of Alaska, with the purpose or result of preventing or impeding the ascent of salmon, or other anadromous species, to their spawning-grounds, is hereby declared to be unlawful, and the Secretary of the Treasury is hereby authorized and directed to establish such Regulations and surveillance as may be necessary to insure that this prohibition is strictly enforced; and every person who shall be found guilty of a violation of the provisions of this section shall be fined not less than 250 dollars for each day of the continuance of such obstructions.

Sec. 5. The Commissioner of Fish and Fisheries is hereby empowered and directed to institute an investigation into the habits, abundance, and distribution of the salmon of Alaska, as well as the present conditions and methods of the fisheries, with a view of recommending to Congress such additional legislation as may be necessary to prevent the impairment or exhaustion of these valuable fisheries, and placing them under regular and permanent conditions of production.

APPENDIX (A).

Extract from the "Congressional Record," 1889, p. 2788.

FUR-SEAL AND SALMON FISHERIES.

Mr. Dunn, from the Committee on Merchant Marine and Fisheries, reported back with the amendments ordered by the House the Bill (H. R. 12432) to amend section 1963 of the Revised Statutes, and to provide for the better protection of the fur-seal and salmon fisheries of Alaska and for other purposes, which was laid on the table for the present, and the Bill and amendments and the accompanying Report ordered to be printed.

APPENDIX (B).

NOTICE.

Section 1956 of the Revised Statutes of the United States provides that no person shall, without the consent of the Secretary of the Treasury, kill any otter, mink, marten, sable or fur-seal, or other fur-bearing animal within the limits of Alaska territory, or in the waters thereof; and that any person convicted of a violation of that section shall, for each offence, be fined not less than 200 dollars or more than 1,000 dollars, or be imprisoned not more than six months, or both; and that all vessels, with their tackle, apparel, furniture, and cargo, found engaged in violation of that section, shall be forfeited.

No fur-bearing animal will therefore be allowed to be killed by persons other than natives within the limits of the Alaska Territory, or in the waters thereof, except fur-seals taken by the Alaska Commercial Company, in pursuance of their lease. The use of fire-arms by the natives in killing otter during the months of May, June, July, August, and September, is hereby prohibited. No vessel will be allowed to anchor in the well-known otter-killing grounds, except those which may carry parties of natives to or from such killing grounds; and it will be the duty of the officers of the United States who may be in that locality to take all proper measures to enforce all the pains and penalties of the law against persons found guilty of a violation thereof. White men lawfully married to natives, and residing within the territory, are considered natives within the meaning of this Order.

271 APPENDIX (C).

FUR-SEAL FISHERIES OF ALASKA.

EXHIBIT C.

List of Vessels seized under orders of the Treasury Department.

Date.	Vessel Seized.	Seizing Vessel.	Commander.
	For violation of Section 1956, R. S.:		
Sept. 1, 1884	Hamburgh schooner "Adele."	Revenue steamer "Corwin"	Captain M. A. Healy.
July 17, 1886	American schooner "San Diego."	Ditto	Captain C. A. Abbey.
Aug. 1, "	British schooner "Thornton."	Ditto	Ditto.
	British schooner "Carolena."	Ditto	Ditto.
Aug. 2, "	British schooner "Onward"	Ditto	Ditto.
July 2, 1887	British schooner "Anna Beck."	Revenue steamer "Rush"	Captain L. G. Shepard.
" 9, "	British schooner "Wm. P. Sayward."	Ditto	Ditto.
" 12, "	British schooner "Dolphin"	Ditto	Ditto.
" 16, "	American schooner "Lilly L."	Ditto	Ditto.
" 17, "	British schooner "Grace"	Ditto	Ditto.
Aug. 6, "	American schooner "Ellen"	Ditto	Ditto.
" 6, "	American schooner "Annie."	Ditto	Ditto.
" 6, "	British schooner "Alfred Adams."	Ditto	Ditto.
" 8, "	American schooner "Alpha."	Ditto	Ditto.
" 8, "	American schooner "Kate and Anna."	Ditto	Ditto.
" 18, "	American schooner "San Jose."	Ditto	Ditto.
" 25, "	American schooner "Allie J. Algar."	Revenue steamer "Bear"	Captain W. A. Healy.
" 25, "	British schooner "Ada"	Ditto	Ditto.
Sept. 2, "	American schooner "Sylvia Handy."	Ditto	Ditto.
	For violation of Section 1961, R. S.:		
June 30, "	American schooner "Challenge."	Revenue steamer "Rush"	Captain L. G. Shepard.

APPENDIX (D).

Extract from the Report of the Governor of Alaska for the fiscal year 1888, to the Secretary of the Interior at Washington.

But whatever may be the conclusion as to the advisability or propriety of continuing the present policy of leasing the rookeries, the question need give Congress little concern if the claim of our Government to exclusive jurisdiction to all that part of Behring's Sea ceded to it by Russia be not insisted upon and maintained. It is just as essential, even more so, that the seals should be protected during their annual migrations to and from the islands, as that they should have such protection while on the rookeries and breeding-grounds. Protection within the 3-mile limit will not suffice to prevent the depopulation of the rookeries and ultimate total extinction of seal life in the waters of Behring's Sea.

In view of the fact that no seizures have been made the present year, the impression has gone abroad that hereafter there will be no interference by our Government with vessels which may engage in taking seals outside the 3-mile limit, and in consequence there is a well-grounded apprehension that next summer Behring's Sea will swarm with sealing-vessels from British Columbia and our own ports, and unless measures are taken to stop them at the threshold, incalculable damage is likely to be done to the rookeries.

The views I entertain concerning what I believe to be the bad policy of leasing the islands, do not blind me to the fact that here is a most valuable interest which it is the duty of the Government to protect by every legal means in its power; it matters not whether the present system be continued, or whether some other and less objectionable plan of dealing with it be adopted.

In view of the existing impression and the probability of a much more determined and destructive raid being made against the seals next summer than was ever before attempted, it is very desirable that the policy and determination of the Government in the matter of their protection should be speedily and finally announced.

APPENDIX (E).

President Harrison's Proclamation against unlawful Hunting on Alaska.

By the President of the United States of America:

A Proclamation.

The following provisions of the laws of the United States are hereby published for the information of all concerned:

Section 1956 Revised Statutes, chapter 3, title 2, enacts that:

"No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal, within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall for each offence be fined not less than 200 nor more than 1,000 dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such Regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur-seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law, nor shall he grant any special privileges under this section."

272 Section 3 of the Act entitled "An Act to provide for the Protection of the Salmon Fisheries of Alaska," approved 2nd March, 1889, provides that:

"Section 3. That section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominions of the United States in the waters of Behring's Sea; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation and cause the same to be published for one month at least in one newspaper (if any such there be) published at each United States port of entry on the Pacific coast, warning all persons against entering the waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruize the said waters and arrest all persons and seize all vessels found to be, or to have been, engaged in any violation of the laws of the United States therein."

Now, therefore, I, Benjamin Harrison, President of the United States, pursuant to the above-recited Statutes, hereby warn all persons against entering the waters of Behring's Sea within the dominion of the United States for the purpose of violating the provisions of said section 1956 Revised Statutes; and I hereby proclaim that all persons found to be, or to have been, engaged in any violation of the laws of the United States in said waters will be arrested and punished as above provided, and that all vessels so employed, their tackle, apparel, furniture, and cargoes, will be seized and forfeited.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this 21st day of March, 1889, and of the Independence of the United States the 113th.

By the President,

(Signed) BENJAMIN HARRISON.

(Signed) JAMES G. BLAINE,
Secretary of State.

APPENDIX (F).

Extract from Report of Committee on Marine and Fisheries, p. 12.

It having been claimed by the Canadian authorities in their brief relating to the seizure of Canadian vessels in Behring's Sea by our Revenue cutters, that ex-Secretary Boutwell had decided that the United States had no jurisdiction over Behring's Sea outside of the 3-mile limit, the attention of Mr. Boutwell was called to the matter

by Honourable W. W. Eaton, late Chairman of the Foreign Affairs Committee, United States Senate, to which Mr. Boutwell made the following reply:

"WASHINGTON, *January 18, 1888.*

"SIR: Since the receipt of your letter of the 16th instant, I have examined with care the letter addressed to me as Secretary of the Treasury by T. G. Phelps, Esq., then Collector of Customs at the Port of San Francisco, dated the 25th March, 1872, and also my official reply thereto, dated the 19th April, 1872, in relation to the purpose of certain parties to capture fur-seals on their annual migration to the islands of St. Paul and St. George, through the Onimak Pass, and through the neighboring approaches to the islands. Upon the examination of the correspondence, my recollection is in a degree refreshed, and my knowledge of the circumstances revived.

"The fourth sentence of Mr. Phelps' letter appears to proceed upon the idea that it was the purpose of the hunters, as their purpose was then understood by him, to take the seals upon the Pacific Ocean side of the Aleutian range of islands, and near the passes mentioned, and through which the animals were destined to move, and such was the view taken by me on which my reply was based.

"Nor can I now see that there is ground for any other reasonable construction of the correspondence.

"Mr. Phelps appears to have apprehended a diversion of seals from the Onimak Pass and the narrow straits near that pass, and his suggestion of a remedy was limited to the same field. Therefore, neither upon my recollection of facts as they were understood by me in 1872, nor upon the present reading of the correspondence, do I admit the claim of Great Britain that my letter is an admission of any right adverse to the claims of the United States in the waters known as Behring's Sea. My letter had reference solely to the waters of the Pacific Ocean, south of the Aleutian Islands.

"Very respectfully,

(Signed) "GEORGE S. BOUTWELL.

"Hon. W. W. EATON, *Washington, D. C.*".

APPENDIX (G).

Extract from "Papers relating to Behring's Sea Fisheries," Washington Government Printing Office, 1887.

PART V.

The following correspondence shows the position assumed in 1872 by the Treasury Department in relation to the extent of jurisdiction of the United States in Alaskan waters.

"*Mr. Phelps to Mr. Boutwell.*

"CUSTOMS HOUSE, SAN FRANCISCO, COLLECTOR'S OFFICE,
March 25, 1872.

"SIR: I deem it proper to call the attention of the Department to certain rumours which appear to be well authenticated, the substance of which appears in the printed slip taken from the 'Daily Chronicle' of this date, herewith inclosed.

273 "In addition to the several schemes mentioned in this paper, information has come to this Office of another which is being organized at the Hawaiian Islands for the same purpose. It is well known that, during the month of May and the early part of June in each year, the fur-seal, in their migration from the southward to St. Paul and St. George Islands, uniformly move through Onimak Pass in large numbers, and also through the narrow straits near that pass which separate several small islands from Aleutian group.

"The object of these several expeditions is unquestionably to intercept the fur-seals at these narrow passages during the period above mentioned, and there, by means of small boats manned by skilful Indians or Aleutian hunters, make indiscriminate slaughter of those animals in the water, after the manner of hunting sea-otters.

"The evil to be apprehended from such proceedings is not so much in respect of the loss resulting from the destruction of the seals at those places (although the killing of each female is in effect the destruction of two seals), but the danger lies in diverting these animals from their accustomed course to the Islands of St. Paul and St. George, their only haunts in the United States.

"It is believed by those who have made the peculiar nature and habits of these animals a study that if they are by any means seriously diverted from the line upon which they have been accustomed to move northward in their passage to these

islands, there is great danger of their seeking other haunts, and should this occur the natural selection would be Komandorsky Islands, which lie just opposite the Pribolov group, near the coast of Kamschatka, owned by Russia, and are now the haunts of fur-seals.

"That the successful prosecution of the above-mentioned schemes would have the effect to drive the seals from their accustomed course there can be no doubt. Considering, therefore, alone the danger which is here threatened to the interest of the Government in the seal fisheries, and the large annual revenue derived from the same, I have the honour to suggest, for the consideration of the Honourable Secretary of the Treasury the question whether the Act of the 1st July, 1870, relating to those fisheries, does not authorize his interference by means of Revenue cutters to prevent foreigners and others from doing such an irreparable mischief to this valuable interest. Should the Honourable Secretary deem it expedient to send a cutter into these waters, I would respectfully suggest that a steam-cutter would be able to render the most efficient service, and that it should be in the region of Onimak Pass and St. Paul and St. George Islands by the 15th of next May.

"I am, very respectfully,

(Signed) "T. G. PHELPS, *Collector.*"

Extract from San Francisco "Daily Chronicle," March 21, 1872.

"It is stated in reliable commercial circles that parties in Australia are preparing to fit out an expedition for the capture of fur-seals in Behring's Sea. The present high prices of fur-seal furs in London and the European markets has acted powerfully in stimulating enterprises of a like character. But a few days ago we mentioned that a Victorian Company was organized for catching fur-seals in the North Pacific. Another party—an agent representing some Eastern capitalists—has been in this city for the past week making inquiries as to the feasibility of organizing an expedition for like purposes."

"Mr. Boutwell to Mr. Phelps.

"TREASURY DEPARTMENT, *Washington, D. C., April 19, 1872.*

"SIR: Your letter of the 25th ultimo was duly received, calling the attention of the Department to certain rumours circulating in San Francisco to the effect that expeditions are to start from Australia and the Hawaiian Islands to take fur-seals on their annual migration to the Islands of St. Paul and St. George through the narrow pass of Onimak. You recommend—to cut off the possibility of evil resulting to the interests of the United States from these expeditions—that a Revenue cutter be sent to the region of Onimak Pass by the 15th May next.

"A very full conversation was had with Captain Bryant upon this subject while he was at the Department, and he conceived it to be entirely impracticable to make such an expedition a paying one, inasmuch as the seals go singly or in pairs, and not in droves, and cover a large region of water in their homeward travel to these islands, and he did not seem to fear that the seals would be driven from their accustomed resorts, even were such attempts made.

"In addition, I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempt within a marine league of the shore.

"As at present advised, I do not think it expedient to carry out your suggestions, but I will thank you to communicate to the Department any further facts or information you may be able to gather upon the subject.

"I am, very respectfully,

(Signed) "GEORGE S. BOUTWELL, *Secretary.*"

No. 202.

Colonial Office to Foreign Office.—(Received August 3.)

DOWNING STREET, *August 3, 1889.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, an extract of a letter from the High Commissioner for Canada respecting the alleged seizure of the "Black Diamond" in Behring's Sea.

274 Lord Knutsford feels assured that the subject will receive the careful and early consideration of Lord Salisbury.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure in No. 202.—Extract.]

The High Commissioner for Canada to Lord Knutsford.

9, VICTORIA CHAMBERS, *Westminster, August 2, 1889.*

Referring to the interview with which I was favoured by Lord Salisbury, yourself, and Sir Julian Pauncefote yesterday, I beg to inclose cuttings from the London "New York Herald,"* and "Daily News"† of to-day, which seem to leave no doubt that the seizure of the British schooner the "Black Diamond" took place in the open waters of Behring's Sea, and is therefore in direct violation of the engagement made by the United States that no more seizures of British vessels should take place pending a settlement of the present controversy.

No. 203.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *August 5, 1889.*

SIR: I have laid before the Marquis of Salisbury your letter of the 3rd instant, with its inclosures, addressed to Her Majesty's Principal Secretary of State for the Colonies by the High Commissioner for Canada, calling attention to the reported seizure in Behring's Sea of the British schooner "Black Diamond" by the United States Revenue-cutter "Rush."

It appears from the newspaper cuttings forwarded by Sir C. Tupper, that despatches from British Columbia, giving details of the case, have arrived at Ottawa, and Lord Salisbury thinks that it would be desirable to obtain by cable some official statement of the case from the Canadian Government before telegraphing to Her Majesty's Representative at Washington.

I am to point out that everything seems to depend in this case on the precise position of the "Black Diamond" at the time of seizure.

Lord Salisbury would also be glad to be furnished with the details of the case of the "Triumph," to which allusion is made in the newspapers, but of which no information has reached the Foreign Office.

The original inclosures accompanying your letter are returned herewith.

I am, &c.

(Signed) T. V. LISTER.

No. 204.

Colonial Office to Foreign Office.—(Received August 9.)

DOWNING STREET, *August 8, 1889.*

SIR: With reference to your letter of the 5th instant respecting the seizure of the "Black Diamond" in the Behring's Sea, I am directed by Lord Knutsford to transmit to you, for the information of the Mar-

*August 2. †August 2, and "Standard" of same date. Not printed.

quis of Salisbury, a copy of a telegram which was addressed to the Governor-General of Canada on the receipt of your letter, together with a copy of one received this day from Lord Stanley of Preston in reply.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 204.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *August 6, 1889.*

Seizure of "Black Diamond" and "Triumph." Telegraph at once full information, specifying precise point where seized, and all the facts connected with these cases.

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275 [Inclosure 2 in No. 204.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

AUGUST 7, 1889.

Cases of "Black Diamond" and "Triumph."
Newspaper reports appear substantially correct.
According to private telegram from Victoria, seizure of "Black Diamond" 70 miles from land. I have not yet received from Ottawa official Report asked for by telegram.

No. 205.

Colonial Office to Foreign Office.—(Received August 9.)

DOWNING STREET, *August 9, 1889.*

SIR: With reference to your letter of the 18th April last, requesting to be supplied with information as to the extent to which vessels belonging to British Columbia were engaged in seal-hunting in Behring's Sea prior to 1886, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, with its inclosures, upon the subject.

Lord Salisbury will observe that the last sub-inclosure to this despatch tends to show that the shooting of seals in the open sea is not the wanton and wasteful destruction of seal life which it is alleged to be by the authorities of the United States.

I am to request that the inclosures to the Governor-General's despatch, which are forwarded in original, may be returned to this Department when they have been printed at the Foreign Office.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure 1 in No. 205.]

Lord Stanley of Preston to Lord Knutsford.

NEW RICHMOND, P. Q., *July 20, 1889.*

MY LORD: With reference to your Lordship's despatch of the 27th April last, transmitting a copy of a letter from the Foreign Office requesting to be supplied with information as to the extent to which vessels belonging to British Columbia

were engaged in seal-hunting in Behring's Sea prior to 1886, I have the honour to forward herewith a copy of an approved Minute of the Privy Council concurring in a Report of my Minister of Marine and Fisheries on the subject.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 205.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, June 29, 1889.

The Committee of the Privy Council have had under consideration a despatch dated the 27th April, 1889, from the Right Honourable the Secretary of State for the Colonies, requesting information as to the extent to which vessels belonging to British Columbia were engaged in seal-hunting in Behring's Sea prior to 1886.

The Minister of Marine and Fisheries to whom the despatch was referred states that until the return of the sealing fleet, which some time since cleared from British Columbia upon its annual sealing voyage, he is unable to furnish complete information upon the early history of the seal industry in the North Pacific Ocean and Behring's Sea, so far as it relates to vessels belonging to British Columbia. The Minister desires, however, to call attention to the Customs records at Victoria, British Columbia, from which it appears that the schooner "Kate," 58 tons, Dutch Harry, master, H. Ogilvie, navigator, went to Behring's Sea in 1865 and again in 1866 upon a sealing voyage.

The Minister observes that it is to be remembered that the sealing industry was carried on by British Columbian vessels, in the waters of British Columbia on the north and north-western coast, as well as in the North Pacific Ocean and
276 Behring's Sea, the seals at certain times of the year spreading over these waters and being captured in great numbers at different points.

In 1880 the fur-seal trade of the British Columbia Coast was of great importance. Previously, and even then, it was difficult to obtain absolutely correct Returns regarding it, but it was estimated that 20,000 skins were obtained in the immediate neighbourhood of Vancouver Island alone during that season.

There were engaged in this fishery in that year the following British Columbia vessels, sailors, and hunters:

Vessels.	Tonnage.	Sailors.	Hunters.
Favorite	79	5	40
Onward	35	4	30
Thornton	35	4	24
Anna Beck	50	5	32
Wanderer	16	3	16
Alert	30	3	32
Winifred	15	3	12
	260	27	186

Employing 93 canoes.

It will be observed that of these vessels a number were, in 1886 and 1887, seized by the United States Government in Behring's Sea, and form the subject of the claims now being pressed.

In the season of 1881 between 13,000 and 14,000 skins, worth from 150,000 dollars to 180,000 dollars, were obtained by the following British vessels:

Vessels.	Tonnage.	Sailors.	Hunters.
Anna Beck	50	6	32
Thornton	35	5	24
Triumph	18	3	12
Winifred	15	3	12
Onward	35	4	32
Black Diamond	80	5	36
Juanita	80	5	36
Favorite	80	5	36
Mary Ellen	65	5	44
Kate	55	5	24
	483	46	292

Employing 146 canoes.

In the next season the catch was valued at 177,000 dollars and the following vessels were engaged in this pursuit:

Vessels.	Tonnage.	Sailors.	Hunters.
Grace	80	5	36
Dolphin	80	5	36
Juanita	50	4	32
W. P. Sayward	75	4	32
Favorite	80	5	32
Mary Ellen	65	5	36
Kate	55	4	28
Onward	35	4	32
Black Diamond	80	4	32
Winifred	15	2	12
Anna Beck	50	4	32
Thornton	35	4	28
Alfred Adams	75	4	32
	775	54	400

Employing 200 canoes.

277 And in 1883 the following vessels from British Columbia pursued this industry:

Vessels.	Tonnage.	Sailors.	Hunters.
W. P. Sayward	75	4	32
Favorite	80	5	32
Mary Ellen	65	5	36
Kate	55	4	28
Onward	35	4	32
Black Diamond	80	4	32
Winifred	15	2	12
Thornton	35	4	28
Alfred Adams	75	4	32
Anna Beck	50	4	32
	565	40	296

Employing 148 canoes.

Apparently and in the absence of more definite information at this moment available in the continual pursuit of these seals, it was after this that fur-seals were systematically sought in the Behring's Sea, as well as in the North Pacific Ocean by British sealers, for it is found that in 1884 Daniel and Alexander McLean, both British subjects, took the American schooner "San Diego" to Behring's Sea, and that they were successful in the seal fishery. On their return they purchased the British schooner "Mary Ellen," 63 tons, and chartered the schooner "Favorite," 80 tons, and with white crew, white hunters, and Indians cleared from Victoria for Behring's Sea in 1885, where they met with repeated success, returning to Victoria before 1886 and clearing in 1886 again for the North Pacific Ocean and Behring's Sea.

The Minister further observes that attention is drawn in the letter from the Foreign Office, now under consideration, to the statement of Mr. Bayard in a letter addressed to Her Majesty's Minister at Washington on the 12th April, 1887, in which the following passage occurs:

"The Laws of the United States regulating the killing of fur-seals have been in force for upwards of seventeen years, and, prior to the seizure of last summer, but a single infraction is known to have occurred and that was promptly punished."

In this connection it is important to note that the Governor of Alaska in his Report, bearing date the 1st October, 1886, and again in 1887, regarded the capture of one American and three British schooners apparently as the first overt act on the part of the United States Government to assert the claim for exclusive jurisdiction over the waters of Behring's Sea north of the Aleutian Islands.

Extracts from these two Reports, hereto appended, indicate as well that, in the opinion of the Governor, an indiscriminate slaughter of seals had been previously carried on in these waters.

In the voluminous correspondence touching the acquisition and Government of Alaska by the United States published in the Executive documents of Congress from 1868 down to the time of the seizures in question, the Minister, after a careful examination, has been unable to find, in the various instructions given from time to time to Commanders of the Revenue Service, or of ships of war of the United States

cruizing in Behring's Sea, organizing a Government in Alaska and guarding the interests of the Alaska Commercial Company upon the islands leased to the Company, any suggestion of the intention of that Government to assert a claim which it had so vehemently disputed when advanced by Russia. The Minister, on the contrary, has observed that while vessels from British Columbia and elsewhere were trading and fishing generally in the Behring's Sea, the instructions relating to the fisheries given to Revenue marine ships by the United States Government until 1886 were confined to the protection of the Seal Islands from marauders who were in the habit of landing thereon.

It is to be noted that the seizures of British sealers in the open sea followed the Report on the cruize of the Revenue marine steamer "Corwin" in the year 1885.

In this Report it is among other things stated that a special look-out was kept for vessels sealing when shaping a course for St. Paul's. The Captain in his Report says:

"While we were in the vicinity of the Seal Islands a look-out was kept at the
278 mast-head for vessels cruizing, sealing, or illicitly trading among those islands."

Having drawn attention to the number of vessels which sought the seals on the islands, and having illustrated the great difficulty of preventing the so-called "piracy" thereupon, the Commander concludes as follows:

"In view of the foregoing facts, I would respectfully suggest—

"(1.) That the Department cause to be printed in the Western Papers, particularly those of San Francisco, California, and Victoria, British Columbia, the sections of the Law relating to the killing of fur-bearing animals in Alaskan waters, and defining in specific terms what is meant by Alaskan waters.

"(2.) That a Revenue-cutter be sent to cruize in the vicinity of Pribyloff Islands and Aleutian group during the sealing season."

While the first suggestion has never been adopted, no notice nor Act having yet defined what is meant by Alaskan waters, it seems to be clear that, in accordance with this Report and other similar representations, the United States Government sent Revenue-cutters in 1886 with instructions for the first time to take sealing-vessels found anywhere in the great ocean called the Behring's Sea.

Accordingly Mr. George R. Tingle, Special Agent of the Treasury Department, reports from St. Paul Island, Alaska, 31st July, 1886, to the Honourable C. S. Fairchild, Acting Secretary of Treasury, Washington, District of Columbia, that the Revenue-cutters were then engaged in keeping marauders from landing on the Seal Islands, and that the Captain of the Revenue-cutter "Corwin," on the 26th July had reported having seized the schooner "San Diego," which vessel he calls an "old offender." He goes on to say: "This commencement of captures will do much towards breaking up the marauding business about the islands this season; indeed, the 'Corwin's' presence here has undoubtedly kept off quite a fleet of schooners and destroyed their unlawful business hereabouts. With the cutter 'Bear' to remain until fall, after coming out of the Arctic, seal life will be protected from pirates this season. It is the only means by which good can be accomplished in that direction. I do earnestly hope the Department will see the necessity of keeping a cutter around the fur-seal islands every season from the 1st July to the 1st November."

From the extract in Mr. Bayard's letter it appears that he was under the impression that prior to the seizures of 1886 but a single infraction of the United States Law regulating fur-seals as construed by the Commanders of the Revenue-vessels which made these seizures, had occurred.

The particulars already referred to by the Minister of Marine and Fisheries fully meet Mr. Bayard's assertion, whether he refers to the violation of the Statute inside of the 3-mile limit or upon the waters of the sea at large.

Attention may be directed to the Report of Mr. George Davidson, Assistant United States Survey on board the United States Revenue-steamer "Lincoln," to Professor Benjamin Pierce, Superintendent United States Coast Survey, Washington, District of Columbia, in 1867, wherein he says, when touching upon the fisheries of the Behring's Sea: "Two or three small schooners sailed from Victoria and made small catches." And again, "In addition to the already acknowledged success of the cod fisheries from San Francisco and Victoria and our own experience, I add that of Captain Bryant, formerly a whaler in the North Pacific, and now an influential member of the Massachusetts Legislature, quoting from your notes of the 26th May. Behring's Sea is a mighty reservoir of cod and halibut, so that he never threw over his lines without bringing up fish in whatever part of the sea he might happen."

It is admitted that Mr. Davidson is not dealing with the fur-seal fisheries to which Mr. Bayard specifically refers, yet the extracts from this Report appear to the Minister to be important, touching the general question of *mare clausum*, bearing testimony as they do to the undisputed enjoyment of the fisheries in general in the Behring's Sea by vessels from British Columbia long ago.

The Minister desires to avail himself of this opportunity to direct attention to recent criticisms of one of the most influential and independent organs of public opinion in the United States upon the position taken by the Government of that *country as regards* Behring's Sea.

The Minister appends herewith a paper upon the "Fur-seal Fisheries of the Pacific Coast and Alaska," recently prepared and published in San Francisco, and designed to explain, more particularly to Eastern United States Senators and Congressmen, the value of the fur-seal fisheries, which contains much valuable information not adverse to the contention of the Canadian Government.

The Committee, concurring in the foregoing Report of the Minister of Marine and Fisheries, recommend that your Excellency be moved to forward a copy of
279 this Minute to the Right Honourable the Principal Secretary of State for the Colonies, for the information of the Foreign Office, and that a copy thereof be sent to the High Commissioner.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

APPENDIX NO. 1.

Extract from the Report of the Governor of Alaska for the Fiscal Year 1886

PROTECTION OF FUR-SEAL AND SEA OTTER, PAGE 48.

As these seizures have most probably raised an international question involving the right of the United States to exclusive jurisdiction over the waters of the Behring's Sea north of the Aleutian Islands, and east of the 193rd meridian, west longitude, it may not be unbecoming in me to suggest that unless that right is insisted upon and maintained, an industry which now yields a revenue equal to a fair rate of interest on the amount paid for the whole of Alaska will not only be destroyed, but the means of livelihood will likewise be taken away from a large number of people whom the Government is bound by every consideration of honour and public policy to protect. I can conceive of no other plan by which the seal fisheries can be preserved than the one long ago adopted and now in vogue, whether they ought not now to be yielding a very large revenue to the Government is a question to be discussed a year or two hence. It is reasonably certain, however, that unless our Government asserts and maintains the jurisdiction ceded to it by Russia, the Seal Islands will in a very few years be robbed of all present or prospective value to any one. It is just as essential to the preservation of this industry that the seals be protected against indiscriminate slaughter while on their way to and from their breeding places, as that the number to be taken on the islands should be limited, and every necessary restriction imposed as to age, sex, and the mode of killing.

* * * * * * *

Unless our right to such jurisdiction be waived or abandoned, seals once in Behring's Sea are as much the property of the United States as the islands themselves, and should be no less zealously guarded than are the Newfoundland cod banks by the Dominion of Canada. Unless so guarded chartered rights will not only be impaired, but a source of large and perpetual revenue to the Government utterly destroyed.

APPENDIX NO. 2.

Extract from the Report of the Governor of Alaska for the Fiscal Year 1887.

PROTECTION OF FUR-SEAL.

In connection with these seizures, from which it seems to me no other inference can be drawn than that our Government is determined to assert and maintain the right of exclusive jurisdiction over all that portion of Behring's Sea ceded to it by Russia, I can only reiterate that part of my last Annual Report in which I essayed, rather feebly I fear, not only to show the necessity of such a policy to the preservation of the sea-fur industry, but the wrong its abandonment would inflict upon the very considerable number of native people who wholly or in large part depend upon it for a livelihood, and whom, it appears to me, it is the duty of the Government to protect.

In view of the fact that the seizure of these vessels and their forfeiture has raised an international question of grave importance, I have thought it proper to include with this Report a copy of the brief submitted by the Queen's Counsel in the case of the British schooners, together with the argument of the United States Attorney and the opinion of the Court. Honourable A. K. Delaney, Collector of Customs,

having been designated as special Counsel on account of the illness and subsequent death of Colonel M. D. Ball, United States District Attorney, represented the Government, and made what I think will be generally conceded a most able and forcible, if not wholly unanswerable, argument. (See Appendix C.)

APPENDIX NO. 3.

Report of the Cruize of the Revenue Marine Steamer "Corwin" in the Year 1885.

[Ex. Doc. No. 153, 49th Congress, 1st Session, pp. 17 and 18.]

During the year quite a number of vessels have raided Alaskan waters for seals and other fur-bearing animals. Among the number the following, with their catches, are noted:

"Look-out," 1,100 seals; "Mary Ellen," 2,309 seals; "Favourite," 2,065 seals; "San Diego," 1,725 seals; "Sierra," 1,312 seals; "Vanderbilt," about 1,000 seals; "Henrietta," about 1,200 seals; "Alexander," 660 seals and 107 sea-otters; "Otter," a few seals and about fifty or sixty sea-otters; with the "Adele" and other vessels yet to hear from.

280 "Thus it will be seen that upwards of ten vessels were engaged in unlawful sealing in Alaskan waters during the present year, and I am convinced that next year the number will be considerably increased.

"Rumours are current here that the American Consul at Victoria has informed different people that they are not prohibited by law from sealing in Alaskan or other waters, provided they keep more than 3 leagues from the shore. Encouraged by this decision and the success of the marauding sealers during the present year, parties in Victoria are fitting out vessels (two or three being steam-schooners) to engage in the business next year. Not only are seals killed out of season, but they are shot in the water, and young and old, male and female, killed indiscriminately, all in direct violation of Sections 1960 and 1961, Revised Statutes, and all tending, if allowed to continue, to drive the seals from their regular haunts."

APPENDIX NO. 4.

Wardman's "Trip to Alaska," pp. 116 and 117.

[Published at Boston and New York in 1884.]

Sea Otter Island, lying about 5 miles southwardly from St. Paul's, is another landing-place for the fur-seal, but only to a limited extent. Owing to the fact that it is not permanently inhabited, some marauders were in the habit of landing on the opposite side, where they could not be seen from St. Paul's, and killing whatever seal they could find, without regard to sex, age, or condition. The Company reported these facts to the Secretary of the Treasury, who decided that the intention of the Act under which the lease was authorized appeared to be to give all the islands of the group to the lessees for the regulation of the traffic and preservation of the fur-seal. Then, as the Company could not defend Sea Otter Island, the Government was asked to do so, and now the practice is to leave a Revenue marine guard there during the sealing season.

APPENDIX NO. 5.

EXTRACT FROM HOUSE EXECUTIVE DOCUMENTS, 2ND SESSION, 48TH CONGRESS, 1884–85, VOL. 29.

Letter from the Secretary of the Treasury relative to the Protection of Seal and Enforcement of Laws in Alaska, and recommending an appropriation of 25,000 dollars for the Revenue Marine Service in that Territory, February 24, 1885.

[Ex. Doc. No. 252, 48th Congress, 2nd Session.]

REVENUE MARINE SERVICE.—In this connection I beg to call the attention of Congress to the importance of the work performed in Alaska by the Revenue cutters. The seal fisheries yield annually to the Government a revenue of about 300,000 dollars. The islands on which the seals are taken are protected from incursions of *marauding vessels* alone through the cruizing of the Revenue cutters.

APPENDIX No. 6.

Report of the Cruize of the Revenue Marine Steamer "Corwin" in the year 1885.

[Ex. Doc. No. 153, 49th Congress, 1st Session, p. 15.]

On our arrival at Ounalaska on the 15th, the steamer "Dora" was in port, and three days later the schooner "Mattie Turner" arrived. The "Turner" reported having seen, three weeks previous, a schooner between the seal islands and Ounalaska, and thought she might still be cruizing in that vicinity for the purpose of killing seals.

APPENDIX No. 7.

"New York Herald," June 7, 1889.

MR. BLAINE'S "EMBARRASSMENTS."—The "Tribune" admits that the "Herald" is right when it assumes that the State Department will be embarrassed by the action of the previous Administration in dealing with the Behring's Sea question.

That is to say, Secretary Blaine, if he undertakes to negotiate with England on the theory that Behring's Sea between the Straits and the Aleutian Islands is a land-locked or closed sea, will be confronted with recent confessions by Mr. Bayard that it is an open sea, and that its fisheries are to be regulated by international action of the leading Maritime Powers.

Very true. It is less than two years since Secretary Bayard invited a number of foreign Powers into some arrangement with the United States for the protec-
281 tion of the Behring's seal fisheries. That was a distinct admission on the part of this Government, and a specific announcement to the Powers addressed that the United States did not claim exclusive jurisdiction over the waters, nor assume any exclusive right to regulate the fisheries. And in keeping with this view was the action of the Government in ordering the release of the Canadian sealers seized by our cruizers. Of course all this will promptly and with reason be cited against Secretary Blaine if he now abandons the position and undertakes to maintain the contrary.

But this is not all that will be cited against the Secretary to his "embarrassment." He will be confronted by the fact that the United States more than sixty years ago emphatically denied the claim of Russia to exclusive jurisdiction, and never conceded that claim while Russia owned Alaska. He will be confronted by the fact that this Government asserted a similar principle in the case of the Black Sea and that of the Baltic. He will further be confronted by the geographical fact that Behring's Sea is an open sea, and by the universal principle of international law that an open sea cannot be owned or controlled by one nation without the consent of other nations. Lastly, Mr. Blaine will be "embarrassed" by the fact that he is the first Secretary of State to advance the claim that Behring's Sea is a closed sea, subject to the control of the United States.

But, says our contemporary, President Harrison's recent Proclamation, which is based on the Act of Congress of the 2nd March, 1889, "embodies the claim to exclusive jurisdiction." Well, suppose it does. That cannot help Mr. Blaine much in his controversy with England. A claim asserted by Congress or the President, or both, has no more international force than a claim asserted by the State Department.

But does the Act of Congress of the 2nd March, on which the President's Proclamation rests, assert the right of control over Behring's Sea? It asserts the right of control over "all the dominion of the United States in the waters of Behring's Sea." Now the extent of the dominion of the United States in those waters is the very point in issue. The previous Act passed in 1868, immediately after the purchase, applied to "the waters of Alaska." If the Amendatory Act of 1889 was intended to assert a larger domain than that of 1868, to declare in favour of exclusive jurisdiction, will not Mr. Blaine be also confronted with the argument that this claim was not asserted by Congress till this year?

However, we hope that Mr. Blaine will be able to overcome his many "embarrassments" in the controversy, and to satisfy England and the other Powers interested that his claim is well grounded. Behring's Sea is a great body of water, and its fisheries are very valuable. If we can secure control of it with foreign consent, so much the better for us. But it looks as if Mr. Blaine had a big undertaking on his hands.

"New York Herald," May 29, 1889.

THE BEHRING'S SEA QUESTION.—So it seems Secretary Blaine has decided that Behring's Sea is a *mare clausum*, or closed sea, over which the United States has exclu-

sive jurisdiction and absolute control. No one, native or alien, but the Alaska Company is to be allowed to catch seals in those waters, and any vessel, American or foreign, found violating this prohibition is to be seized.

Can Mr. Blaine successfully maintain this claim in the diplomatic controversy which its announcement must provoke? Can our Government undertake to enforce it without inviting a foreign war?

The claim is against universally recognized principles of international law. It is opposed to the traditions and precedents of our own Government. It is contrary to the record of the State Department on this very question as recently as the administration of Mr. Bayard.

In the law of nations no principle is more settled than that the high seas are the public property of the world, which cannot be monopolized by any one Power. As Woolsey says:

The high sea is free and open to all nations. It cannot be the property or the empire of a particular State. It cannot become property, for it cannot be possessed. It is clearly for the common benefit of mankind. It is a common pathway, separating and yet binding, intended alike for all.

It is equally well settled that a nation may own and exercise exclusive control over a "closed sea"—that is, a body of water either lying wholly within, or is almost entirely surrounded by, its own territory. The jurisdiction of every country over the ocean for a marine league, or 3 miles, from its coast is universally conceded.

A glance at the map will show that Behring's Sea is not a closed sea. It is a vast expanse of water more than 1,000 miles wide. It is not land-locked. It is part of the Pacific Ocean; it forms the water highway between that and the Arctic Ocean. To claim it is to claim the high seas.

The State Department now bases its claim on the rights acquired from Russia when we purchased Alaska. There can be no question that the United States succeeded to all the rights held by Russia. But what were Russia's rights?

It is true that Russia claimed Behring's Sea long before we bought Alaska. But that country never had any exclusive right to it, for the simple reason that it never acquired, and never could acquire, except by the consent of nations, any such right. This Government cannot simply fall back on Russia's claim. It will be required by foreign Powers to show that the claim is well founded, or abandon it.

Russia's claim was never conceded by any other Power. On the contrary, it was emphatically denied by the two foreign Powers most interested. It was denied by the United States, and it was denied by Great Britain. Russia yielded to this Government in a Treaty made in 1824, and to England in one made in the following year. Our Treaty continued in force for only ten years, but we never conceded to Russia the right it claimed.

If the State Department now undertakes to maintain Russia's old claim it will be confronted not only by the opposition of England, but also by its own record. Moreover, it will run counter to the international principle it has invoked against foreign Powers in numerous cases, that an open sea cannot be exclusively controlled by any nation.

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282 APPENDIX NO. 8.

"Fur Seal Fisheries of the Pacific Coast and Alaska."

This pamphlet, in connection with the Chart inclosed, is designed to explain more particularly to our Eastern Senators and Congressmen the full value of the fur-seal fisheries, in order that when the question of re-leasing the fur-seal islands of St. George and St. Paul arises, they may know exactly what they are doing, so that they may not grant a monopoly to any firm or Company for a trifle, which has been done in the past to the Alaska Commercial Company of San Francisco.

These islands are so far away from the eastern part of our country that the great majority of merchants and business men know comparatively nothing about this great industry, and the profits connected with the same.

The writer, during the past two or three years, has met a great many eastern visitors to our coast, and whenever the question of the fur-seal fisheries has been brought up he finds that in all cases they have not the slightest idea of the same, and whenever the value is explained, and Charts shown, showing just how broad the claim our Government has taken in its jurisdiction of the Behring's Sea, in protection of the fur-seal, or more particularly protecting the Alaska Commercial Company in their vast monopoly of the fur-seal fisheries, and by this monopoly enabling this Company to control nearly all of the fur trade of Alaska, they are astonished, and still more when it is further explained to them that the 100,000 fur-seals, as taken *by the* Alaska Commercial Company, bring nearly 2,000,000 dollars each year, and for

this privilege the fee to the United States Government is the small sum of 296,286 dol. 82 c., being the exact average amount paid by the Alaska Commercial Company, and to be paid by them each year, as claimed by the Alaska Commercial Company, during the twenty years of their lease. This is taken from the Alaska Commercial Company's own statement in their reply to Governor Swineford's charges (see p. 12 of that volume)—and these figures cannot be disputed by them—thus enabling the Company to make a clear profit of not less than 1,000,000 to 1,250,000 dollars each year off the seal islands alone.

When they come to figure that this has been going on for nearly twenty years, it is easy to explain how they have controlled all the trade of this vast section.

Evidently a strong effort is being made by certain parties that the leasing of the fur-seal islands shall be at the discretion of the Secretary of the Treasury to say who is the proper person to lease these islands to, and that a set sum shall be the specified amount for this lease. Below we copy an article cut from one of the daily papers, entitled—

The Seal Fisheries.

(An interesting Report presented to the House.)

WASHINGTON, *January 29.*

Representative Dunn, from the Committee on Merchant Marine and Fisheries, to-day presented the results of the investigation by the Committee into the fur-seal fisheries of Alaska, with special reference to whether the Contract giving the Alaska Commercial Company the right to take fur-seals had been violated. Dunn accompanied his Report with a Bill on the subject. It proposes to amend the present Law by providing that one year before the present lease to the Alaska Company expires, or when any future similar lease expires, the Secretary of the Treasury shall lease to the proper persons the right of taking fur-seals on the Islands of St. Paul and St. George for twenty years, at not less than 50,000 dollars per annum, and 3 dol. 50 c. in addition for each sealskin shipped from the islands. Such lease shall not be transferable.

You will notice in this Report it is recommended that the Secretary of the Treasury shall lease to the proper persons. Now, the question is, who are the proper persons? Can any one read this Report and fail to see where the interest is? Why not put the leasing of these islands in a business shape like any other Government Contract? Let it be awarded to the highest bidder; give all a chance, and not allow this one man to decide who are the proper persons to whom these islands shall be leased. If it is done in this way it is safe to say that the next lease will realize from 600,000 to 800,000 dollars per annum to our Government, instead of 400,000 dollars, as per recommendation of Mr. Dunn.

You will also notice that it is recommended to amend the Laws so that the Secretary of the Treasury shall not only have the power of re-leasing the islands, but that this Law shall apply to any future lease, thereby extending this power to an unlimited extent, in fact as long as these islands are of any value for leasing.

Who would not like to be the Secretary of the Treasury and have this power? It would be almost as good as having the islands themselves. Now, we protest against such action. It shows fraud upon its face so plain that a blind man ought to see through it.

This Report of the 29th January goes further on, and says:

The present Law is declared to apply to all the waters of Behring's Sea in Alaska mentioned in the Treaty with Russia by which Alaska was ceded to the United States, and the President shall take measures to have arrested all persons, and seized all vessels, violating the laws of the United States therein. In addition to the above provision is made for the protection of the salmon fisheries. The Report recommends
that the Act to prevent the extermination of our fur-bearing animals in Alaska
283 be continued in force with certain amendments, believing that not only the system it adopts but the methods of carrying it into effect are well adapted for the purpose indicated.

In conclusion, the Committee finds the following facts:

That if the Law protecting seal life is enforced, the preservation of the seal rookeries will be assured, the revenue continued and increased, and the native inhabitants of the seal islands maintained, without cost to the Government; that the Alaska Commercial Company has fully performed its Contract with the Government, and has contributed liberally to the support, maintenance, comfort, and civilization of the inhabitants of not only the seal islands, but to those of the Aleutian Islands, Kodiac, and the mainland; that the fur-seal industry will have paid into the Treasury over 8,000,000 dollars during the period of the present lease; that the chief object of the purchase of Alaska was the acquisition of the valuable products of Behring's Sea, that at the cession of Alaska to the United States the Russian title to

Behring's Sea was perfect and undisputed, and that by virtue of the cession the United States acquired complete title to all that portion of Behring's Sea situated within the limits prescribed by Treaty.

In reviewing this part of the Report we are not prepared to say that the Company has not fulfilled all of its obligation to the Government, certainly it should have done so with the profits connected with this monopoly. This part of the Report was, as we understand, the result of an investigation of the charges made by Governor Alfred P. Swineford, of Alaska, against the Alaska Commercial Company.

We hereby republish Governor Swineford's reply, as published in various papers previous to this date:

Governor Swineford's Report.

The annual Report of Governor Swineford, of Alaska, on the territory and the operations of the Alaska Commercial Company was laid before both Houses of Congress on the 19th January.

The Governor reaffirms and emphasizes the accusations heretofore made by him against the Company in its dealings with the natives other than those living on the seal islands.

Concerning the treatment of these he has no word of complaint. He also says that the Company's Contract with the Government relative to the taking of fur-seal is, in his opinion, faithfully observed. The Company's treatment of the mainland natives he characterizes as unjust and cruel in the extreme.

Referring to the denial of the charges against the Company in his last annual Report, he says:

"I now and here reiterate every one of those charges, though I know full well that an investigation made by a Committee of Congress, holding its sessions in Washington, and calling as witnesses only those who have been recipients of the Company's favours, is not likely to arrive at any just conclusion as to their truth or falsity. I can only say that each and every statement I have made concerning the operations of the Company is susceptible of the clearest and most convincing proof but the evidence will not be found lying around loose in the cities of Washington and San Francisco. It must be sought for among the people who have suffered from its oppressions rather than in the persons of those who have had free transportation on its ships and been wined and dined at the tables of its officers and agents. A Sub-Committee of Congress going over the route taken by me in the recent cruize of the 'Thetis,' assuring the people of protection against still greater oppression after its departure, will have no difficulty whatever in finding the evidence to prove the truth of every statement I have made."

The Report for 1887 above referred to was published in the "Fur Trade Review" for July 1887.

The "Fur Trade Review" can be obtained by addressing the publishers, No. 35, Bond Street, New York City.

In referring to the part of this Report where it is claimed that the fur-seal industry will have paid into the Treasury over 8,000,000 dollars during the period of the present lease, we claim this part to be false. The Government has not, and will not, have received it at the end of the lease, and taking the Alaska Commercial Company's reply to Governor Swineford's charge in referring to what they have paid, the Alaska Commercial Company says:

"As this part of the subject bears upon the Company's relation to the Government, we may be excused for here calling attention to the fact that the total annual tax and rental paid by this Company to the United States from the 1st of July, 1870, to August 1887, amounts to 5,290,736 dol. 49 c.

"Calculating that the full number of fur-seals for the next two years be taken, we will have paid the full sum of 5,925,736 dol. 49 c."

See pp. 11 and 12 of reply of the Alaska Commercial Company to the charge of Governor Alfred E. Swineford, of Alaska, against the Company, in his annual Report for the year 1887.

Now, this is copied directly from the Alaska Commercial Company's reply. Taking their own figures for the same, where they only claim they will have paid into the Treasury at the end of their lease 5,925,736 dol. 49 c., this leaves a difference of 2,074,263 dol. 51 c. between what they will actually have paid, according to their own figures, and what is claimed in the Report of Representative Dunn. Now, we ask, why this false representation by one of our Representatives?

Having now fully shown why this Report, as recommended, should have no bearing—showing the falsity of the same—we will now go further, and show the value of the catch of the 100,000 fur-seals, as taken by the Alaska Commercial Company for the year 1888.

We will also show nearly the actual cost of the expense to the Company in taking them, sending to market, commissions, &c. While this is a difficult matter to *do exactly*, we will come near it, and allow long margins in favour of this expense, *enough so that it* will undoubtedly leave a balance in their favour:

284 In the first place, we take their average amount paid to the Government, as per their own estimate and statement..... $296,286.82

This must be correct.

We then take the money paid to the natives for killing and skinning the seal.

In their reply to Governor Swineford's charge (p. 19) they say:

"There are 87 families on St. Paul Island; there are 26 families on St. George Island; making 113 families in all."

We will give the benefit of 450 dollars for each family, which is the highest price claimed as being paid to them for their service (see p. 16 in their reply to Governor Swineford's charge). This would give total expense for killing, skinning, curing, and loading into the vessel, as paid to the natives 51,850.00

This allows the very highest estimate paid for this service, according to their own Report.

We will now make an allowance of..... 30,000.00

for expense of the Company on the islands for the year, independent of the sum paid to the natives. This is for white clerk hire, insurance, and for fuel, and an abundant supply of salted salmon, which is given to the natives free of charge, &c., which we think to be a full margin for this expense.

The next item of expense is salt, which is the only article used to cure the skins. We will say that it takes 400 tons of salt—200 tons will do this, but on account of the short time in which seals are taken, it does not allow much time to use it over, which can be done two or three times. This salt at present is worth 9 dollars per ton in San Francisco, in small lots of 1 to 10 tons. We will say that it cost that for 400 tons, making expense of salt 3,600.00

The next item is cost of transportation from the island to San Francisco. The steamer "St. Paul" is designed for this purpose. She made three trips during the year 1888, clearing from San Francisco for Ounalaska—

1st trip, cleared March 22, 1888.

2nd trip, cleared May 12, 1888.

3rd trip, cleared September 13, 1888.

Each time the manifest called for assorted goods and merchandize of various kinds, and fully one-half of which was consigned to other parts of Alaska, so that probably one-half of the expense of this steamer could be charged to other business, independent of the seal islands. On two of these trips she cleared with thirty men, and once with thirty-one. The steamer is probably employed eight months in the year. The expense of this cannot be accurately estimated, but by estimating the expense of this vessel..... 50,000.00

for the year, would, we think, give long margin, so as to include wear and tear, interest on investment, insurance, &c.; this would give expense a fair estimate until goods are laid in San Francisco. We will allow 1½ per cent. insurance to London on, say, 1,250,000 dollars, which would probably be the extent that these skins could be insured for, and which amounts to..... 18,750.00

When the skins arrive in San Francisco they are packed in casks, especially made for this purpose, which contain on an average 40 to 45 skins, calling 40 skins. This would make 2,500 casks. San Francisco market value of same is 2 dol. 25 c. each, making total expense..... 5,375.00

We will give expense of packing in casks, drayage, and storage in San Francisco..... 5,000.00

The freight at present time between San Francisco and New York, in carload lots, for seal-skins in pickle, is 2 cents per lb. When packed they will average nearly 16 lbs., and taking this as a basis, they would make nearly 1,600,000 lbs., at 2 cents per lb..... 32,000.00

We will say it cost one-half this amount to lay and deliver them in London viâ steamer from New York, which, we think, is a large estimate 16,000.00

This lays them in London ready for sale. The purchaser has a discount of 2½ per cent. allowed him, which is deducted from his purchase. This would make on 1,890,094 dol. 29.96 c., amount realized for the skins.. 47,252.35

C. M. Lampson and Co.'s charges for commission on the sale of salted fur-seal skins, which include insurance, storage, &c., after the goods are delivered to them, is 4 per cent..... 75,603.76

This gives total expense of catching, curing, and marketing the 100,000 seals..... 559,367.93

The estimate of cost	$296,286.82
Discount, 2½ per cent	47,252.35
Commissions, &c., C. M. Lampson and Co	75,603.76
Labour of the natives	51,850.00
	470,992.93

These figures are practically correct, and can be verified. This amounts to within 88,375 dollars which is estimated, but the estimates are made long enough so that any Company obtaining the future lease of these islands can contract in San Francisco for this portion of the expense at these figures, and even less.

Having now found the actual cost, or near the same, of the 100,000 seals,
285 we will go further and find what these seals were sold for; we can then determine the profit, or near it, for the year 1888 on the 100,000 seals.

The skins, after arriving in London, were sold on the 6th November, 1888, by C. M. Lampson and Co., at public sale at the London Commercial Sale Rooms, Mincing Lane, as per their catalogue, which can be obtained from all exporters of furs, or from all large fur houses in the principal cities of the United States. They were sold in lots, the largest lot of which contained 222 skins, and the prices ranged from 130*s.* per skin down to 29*s.* In order to get at the exact amount realized by the sale, we have assorted the lots, and find that they brought as follows:

29	skins brought		130*s.* each	1,098	skins brought		80*s.* each
120	"	"	120*s.* "	360	"	"	79*s.* "
1,293	"	"	119*s.* "	2,164	"	"	78*s.* "
413	"	"	118*s.* "	360	"	"	77*s.* "
360	"	"	117*s.* "	2,303	"	"	76*s.* "
1,660	"	"	116*s.* "	24,660	"	"	75*s.* "
3,298	"	"	115*s.* "	3,420	"	"	74*s.* "
2,240	"	"	114*s.* "	180	"	"	73*s.* "
420	"	"	113*s.* "	102	"	"	70*s.* "
65	"	"	112*s.* "	206	"	"	69*s.* "
140	"	"	111*s.* "	56	"	"	68*s.* "
140	"	"	109*s.* "	470	"	"	67*s.* "
280	"	"	107*s.* "	1,377	"	"	66*s.* "
420	"	"	105*s.* "	14,150	"	"	65*s.* "
140	"	"	103*s.* "	2,741	"	"	64*s.* "
142	"	"	98*s.* "	2,769	"	"	63*s.* "
143	"	"	96*s.* "	9,187	"	"	62*s.* "
60	"	"	95*s.* "	2,270	"	"	61*s.* "
242	"	"	94*s.* "	200	"	"	60*s.* "
147	"	"	93*s.* "	1,054	"	"	57*s.* "
183	"	"	92*s.* "	263	"	"	56*s.* "
3,200	"	"	91*s.* "	393	"	"	55*s.* "
9,600	"	"	90*s.* "	172	"	"	54*s.* "
3,200	"	"	89*s.* "	384	"	"	50*s.* "
177	"	"	88*s.* "	29	"	"	45*s.* "
640	"	"	85*s.* "	31	"	"	44*s.* "
368	"	"	83*s.* "	57	"	"	42*s.* "
244	"	"	82*s.* "	16	"	"	29*s.* "
180	"	"	81*s.* "				

Now, in summing up the different lots, I find that instead of there being only 100,000 skins, as represented at the beginning of Lampson and Co.'s catalogue, consisting of 97,871 Alaska fur-seal skins, salted, and 2,129 Alaska seal skins, dressed natural, there was 100,016 skins, which realized 389,911*l.* 3*s.*, which, when reduced to United States money on the basis of 4 dol. 84½ c. to the pound sterling amounts to 1,890,094 dol. 29.69 c., thus bringing on an average 18 dol. 89.79 c. per skin.

We found that these skins brought	$1,890,094.2967
Deducting the total cost of same	559,367.9300
Leaves a net profit of	1,330,726.3667

for the year 1888. Figuring this as general merchants do, it makes nearly a net profit of 238 per cent. on the capital invested. Talk about your sugar trust, gas stock, Water Companies, railroads, &c., this lays them all in the shade in the matter of profits. These figures are not mere guess work, but the facts, and any one by following the directions as specified can find vouchers for all these estimates.

Having now shown the value of this privilege in a fair and business manner, we ask, is it right and just to the business men, merchants, capitalists, and persons of the United States who have money to invest, and are more than willing to invest where there is a reasonable chance for returns, that this privilege should be placed at the discretion of one man to decide who is the proper person to have this privilege? Are we not right in this claim that if it is placed like any other Government contract that 600,000 to 800,000 dollars per year will be offered for this privilege, and by parties who will give as good bonds as can be had for the fulfilment of their contract?

Among the various methods for handling of the fur-seals, one is that the Govern*ment shall take* charge of this, and conduct this business so as to derive all the

benefit therefrom, which is not a bad one. Some would say the Government could not do this. It seems plain and easy. Let the Government take charge of this Reservation. The articles necessary to conduct the business could be bought the same as it now is, with ordinary supplies, by bids. A competent foreman can be obtained among its officers to superintend the killing and curing of the seal, as it requires no great skill to do this.

The Government steamer "Bear" could be used to transport supplies on its trip to the Arctic in the spring and bring back to San Francisco the seal-skins on their return trip in the fall, thereby causing but little expense, as on both trips to and from the Arctic they pass within 50 miles of these islands. The skins could be packed and shipped under the provision of the Government officials to C. M. Lampson and Co. for sale, and returns made direct to the Treasurer of the United States. This seems to be the best and most practical way to dispose of this franchise, thereby deriving all the benefits there may be in it to the Government. The privilege of conducting a general store on the islands could be sold the same as with other Reservations, as 113 families would undoubtedly support one good general merchandize store.

Another way, which we think would be much better for the best interest of the people of the Pacific coast, would be as follows.

Let the Government take charge of this Reservation, and, instead of killing 100,000, take 50,000 seals; and in doing this, let the selection be more thorough,
286 so that the 50,000 skins shall be strictly choice skins, that would average the highest possible price. Then abandon the present policy of claiming the Behring's Sea as an inland sea, which cannot be made to stand in the end. Restrict the killing of seal within the 3-mile or 6-mile limit, whatever is decided to be the limit of what a nation can hold authority over the high seas, and in this way it would promote the industry of private sealing to a much larger extent than it now is.

A person not knowing the value of this industry would ask wherein it would be to the interest of the Pacific coast to promote the sealing industry by private individuals. The answer is, three-fourths of the money derived from the catch of the private sealer is put right into circulation in this manner; in fact, quite a large percentage is put into circulation before the vessel leaves port. In order to make this more plain, we will give the detail of the private-sealer business. In the first place, a vessel has to be secured, either by chartering or purchasing. The vessels employed in this business are mostly small schooners ranging from 40 to 110 tons burden, 70 tons being a fair average for size. We will say an order is given to our ship-yards for a vessel for sealing:

For a new vessel of this description of 70 tons a fair price in San Francisco is	$7,000.00
This is designed to carry six otter- or sealing-boats, and a crew of twenty-one men. As soon as the vessel is received from the ship-yard, she has to be furnished with her anchors, chains, spare ropes, an extra suit of sails, dishes, cooking utensils, and other articles too numerous to mention, of which	2,500.00
is a low estimate.	
The next item is the six hunting-boats, with an average of 100 dollars each	600.00
A complete new outfit of guns, rifles, and ammunition, ranging from 600 to 900 dollars, according to the ideas of the master or owner, which we will call	750.00
Salt for curing the skins	100.00
Then comes the item of provisions, coal, &c., for a cruize of eight months for twenty-one men, would average	900.00
The slop-chest, which consists of clothing, blankets, boots and shoes, tobacco and medicines suitable for a cruize, which the law forces all masters to take, is estimated	450.00
The vessel is now ready for sea except the crew. These as a rule go on a lay, but all being poor men, they generally have an advance paid to them, ranging from 20 to 100 dollars, and with a crew of twenty-one men a master may be considered lucky if he gets off with less than advance money for his crew.	1,200.00
Total expense to start with	13,500.00

This is as low an estimate as a vessel carrying six boats can be built and furnished for her first trip, with a reasonably fair outfit suitable to make a success of the business. This is near the actual expense which any one would be at to engage in this business. Of course this amount would immediately go into circulation. At the present time there are about fifteen American vessels on the Pacific coast engaged in this business. Now could this business be brought up to 115 vessels, it would require

100 new vessels and outfits, which would at once put into circulation 1,350,000 dollars at the lowest calculation possible, and would give employment to 2,100 men. We will now estimate the average catch of the private sealer at 10,000 dollars each. This, one season with another, is a fair average catch and would realize 1,000,000 dollars for the 100 vessels. The crew, at the end of the season, come in to be paid off, and, as a rule, receive one-half of the catch, which amounts to 500,000 dollars.

This is put immediately into circulation, leaving the balance in the owner's hands to balance his outlay on the trip whatever net profit there may be in the business. We will say that it is divided between the 100 owners. Now these 100 owners support 100 families, as a rule, and spend much more than though it was made and handled by four or five men in a stock Company. This explains wherein it is to the best advantage for the Pacific coast to have this business open to any one who wished to invest, in the same. It is plain to be seen if this extra amount of business could be distributed on the Pacific coast between San Francisco, Portland, Port Townsend, Seattle, and other shipping points, it would promote all trade and business, with perhaps the exception of the hack-driver and undertaker. The Government at the same time would derive a large revenue on the sale of the 50,000 skins, enough to pay a dividend on the purchase of Alaska larger than it ever has done, and have a margin to protect the seals on their breeding grounds, which is conceded by all should be done.

We understand the objection made to the private sealers is made by those who do not understand how the hunting of seal is done. The reason for the objection is, that the private sealer will destroy all the seals and break up the seal rookeries. We ask: Has there ever been a seal rookery broken up and destroyed by hunters with fire-arms when used at sea from 10 to 20 miles away from the rookeries, and in most instances 50 miles away from the rookeries? We answer, No; it never has been done, and never can be done. In all cases where rookeries have been broken up it has been done by hunters directly on the beach where the seal land, and by hunting and killing them indiscriminately, so that they could not land and have their young, and care for the same. The killing of seal from 10 to 20 miles away from the rookeries is quite another thing. The seal there is not at the mercy of the hunter, as it has plenty of sea room, and is able to take care of itself, and is no easy game to capture, even by the most skilful hunter. This will be understood when it is considered that 2,500 seals is an exceptionally good catch for a vessel carrying twenty-one men, who are generally out seven or eight months getting this many. This shows that the seal, when away from land and at sea, is a hard animal to capture, and that they can never be exterminated by hunting at sea as now done, any more than the ducks and geese can be all killed, while on their way to and from breeding grounds in the Arctic.

287 We often see Reports about the seal-hunters, with remarks of the way they capture seals, claiming that many were shot and wounded, and couched in the most endearing manner that the poor seals were slaughtered by the hunters with shot-gun and rifle, so as to carry the impression that it was the most cruel business on the part of private sealers, and a business that should not be allowed, it being cruel in the extreme and unnecessary.

We will now turn the tables, and ask was there ever a more cruel and brutal method invented for killing dumb animals than is now practiced in killing seals on the Islands of St. George and St. Paul. Imagine how these highly intelligent animals are gradually forced and driven away from the sea, their native element, driven inland as far as deemed practical. The slaughter then commences. Imagine a gang of men with clubs and bludgeons knocking out their brains right and left, and if the seal is not hit right at the first blow it is followed up and slaughtered, its brains being knocked out by a club.

Who can imagine a more cruel method than this for killing dumb animals? Certainly the private sealer's method is the most humane of the two. Again, it is claimed that many seals are shot that sink and are lost. Undoubtedly there are some lost in this way, but the percentage is light, probably one in thirty or forty, not more than this. It is also claimed that ten are shot and wounded that die to one that is secured. This is also an error. Many seals are shot at that are not hit at all, but when a seal is wounded, so that in the end it will die, it is most always secured by the hunter who may have to shoot at it several times in order to get it, as the seal in the water exposes only its head, and when frightened exposes only a small portion of that, so that, together with the constant diving of the seal, the motion of the boat, &c., makes it very hard to hit. This is where it is claimed that ten are shot and wounded to one that is secured, but it is nearer the truth that one is lost to ten that are secured, for the reason that when a seal is wounded it cannot remain under water any length of time, and therefore the hunter can easily follow it up and secure it.

We will now look at the Chart of the Behring's Sea and see on what grounds our Government claims this. You will notice a long chain of islands, called the Aleutian

Islands, extending in the form of a circle to the westward, dividing the Pacific Ocean from the Behring's Sea. These islands are undoubtedly of volcanic formation, and while they extend some 1,200 miles to the westward, they do not inclose the Behring's Sea. The Island of Atton is our extreme western possession. The distance from the Island of Atton to Copper Island is 175 miles, and to the nearest point of the Kamchatka coast or Siberian side, 370 miles. Now if our Government can claim and control a sea with a passage 370 miles across, we want to know how she is going to do it, and on what grounds. Certainly not that it is an inclosed sea. More especially, when you again look at the Chart, you see that the Island of Atton is at the extreme end of the chain of islands, and as you follow this chain of islands back to the eastward as far as Unimak Pass, that between these islands are wide passages, allowing vessels of the largest dimensions to pass in and out of the Behring's Sea at will, a distance of some 1,200 miles to the Siberian coast, in a direct westward line. By carefully perusing this Chart it must convince the sceptical that our Government has no claim to the Behring's Sea as an inclosed sea.

We now come to the question of the jurisdiction of the Behring's Sea as taken by our Government, caused by the seal question. For this reason the Chart of the North Pacific Ocean and the Behring's Sea is sent to you so that it may show just how broad the claim our Government has taken in this matter. You will notice on the Chart of the Behring's Sea the line called the United States imaginary boundary-line, called this for lack of no better name. This line has been laid out or imagined to exist in an open sea 1,200 miles across in its widest part, something never before claimed by any other Power in the history of the world. The impression has gone out that the Behring's Sea is an inclosed water, and under the full control of the United States and Russia. Just how or where this claim was first obtained no one seems to know. It sprang into existence like a mushroom, and apparently with about the same strength and standing. Our Government could, with the same consistency, all of a sudden claim the control of the Gulf of Mexico. It is considered by all maritime laws that a nation can only control a certain distance of the sea from her shores. This has been the established custom as a maritime law for an indefinite time, and our Government insists that our American fishermen shall have all right outside of the 3-mile limit from land in the controversy between the Canadian and American fishermen, and would not consider the 10-miles headland point as asked by the Canadians, but when they come on the Pacific in the Behring's Sea they go directly back on what they claim on the eastern side, and say, We own all this sea, and if you are found in it your vessels are subject to seizure and yourself fined, making no allowance whatever for what portion you may be in, whether 1 mile or 100 miles from land. Our Government then going directly back on what it claims from the Canadian authorities on the other side, we ask, can this claim be held when it comes to a final issue? So far it has been done by force, but might is not always right, and can any one claim but what our Government will have yet to pay for the damages to the Canadians and her own citizens for the losses they have sustained by the seizure of their vessels and forfeiture of same by our Government in its raid among the sealers in the year 1887 in the Behring's Sea.

By what other rights has the United States to the Behring's Sea? It is claimed that Russia ceded and sold to the United States the full and absolute right and control of all the waters of the Behring's Sea. The question is, did Russia do this? Did she sell this open sea, the public highway of the whalers, for an indefinite length of time in the past, to the whaling grounds in the Arctic—the highway of England via the Yukon River to her possessions in the far north. She did not do it. She sold her rights of the shore-line only, of which undoubtedly she had a right to do. Russia, despots and tyrants as they have proved themselves to be in all their dealings with nations and private individuals, never has and does not to this day claim or exercise jurisdiction of the Behring's Sea, except the shore-line. American, English, and vessels of all nations are allowed to hunt, fish, and trade without molestation in the waters of Behring's Sea, adjacent to Russian possessions, providing they respect the shore-line. The Russian Consul at Yokahama has in the past, and undoubtedly does at the present, issue orders to parties fitting out for hunting in the Behring's Sea, warning them not to intrude on the shore-line, within so many miles from shore,
288 thus practically admitting that she had no claim to this open high sea. Is not this fact alone sufficient evidence that she never sold to the United States what is now claimed she sold? She sold what she owned, and that was the shore-line only.

It seems that this imaginary boundary-line as set down on the Chart originated in imagination much the same as many stories, and after being told awhile is accepted as a fact and believed to be true, even by the person who first told the story. But when a thorough investigation is made, it is found that they will not hold water, and are matters of fiction only.

Having now reviewed this question, we ask our eastern Congressmen and Senators and Eastern newspapers to examine the merits of this case, so that when this important measure comes up they will know the full value of the same, and will act in the way that will be for the best interest of the most people of the United States. When

Alaska was purchased, it was undoubtedly designed to be for the benefit of the masses, and probably not to create a monopoly for the benefit of a few men only, thereby retarding the growth and development of this very valuable Territory. We also think the laws should be so amended that a person could acquire a title to property, and so changed that a white man could have the privilege of killing a mink or an otter for its skin without first marrying a squaw; as the law now reads, no white man is allowed to kill any fur-bearing animal unless he marries a squaw. This is not commonly understood, but is a fact, and is a queer state of affairs, and one that would not be relished by parents having sons that would like to go to Alaska, more especially if they should have seen the Reports of Miss Kate Field on the women of Alaska.

It should not be forgotten that this is the first instance in the history of the Government of the United States in which it has ever pursued a policy tending to create a monopoly. All its laws relating to other portions of the public domain have been framed with a view to invite competition and prevent monopoly. Such is the spirit which has actuated and governed the pre-emption, homestead, mineral, and other laws relating to the public property. The theory has been that such public property has been vested in the Government, in trust, as it were, for all its citizens. The proposed legislation with respect to the Alaska seal fisheries will be the first exception to this universal policy. Indeed there is no species of the public property which has been more peculiarly regarded as the common heritage of all than the fisheries. Thus our Government has been for years past expending the most elaborate efforts, in time and money, to bring about such an adjustment of the Fisheries question on the North Atlantic coast as will open them to all American citizens. It is at least singular that, the moment we cross the continent, this established public policy should entirely change, and the waters of the Pacific be erected into a monopoly for the benefit of a single Corporation.

In conclusion, we cannot help but review the fact that it would be vastly to the best interest of the Pacific coast, and to the whole of the people of the United States, that the Government should take charge of the seal islands, restrict the killing to 50,000 seals per year, abandon the present bad policy of the jurisdiction of the whole of Behring's Sea, and open the Territory to its full development.

Our Eastern friends might ask us how it would benefit them. In the first place, it would open a profitable field for the employment of your idle capital.

In the second place, half of the articles necessary to develop this Territory would be drawn from your manufacturers, such as hardware, canvas for sails, ship chandlery, guns, clothing of all description, such as waterproof and oil clothing, and, in fact, all branches of trade would derive some benefit from it.

In the third place, it would open a field for the profitable employment of hundreds of your young men who are always on the watch for new fields to enter, so as to acquire wealth and a competency.

We ask your careful attention of the facts set before you, and trust our efforts may not be in vain.

Copies of this can be obtained by addressing C. D. Ladd, 529 and 531, Kearny Street, San Francisco, California.

Salmon and Seal.

THE PROVISIONS OF THE LAW TO BE STRICTLY ENFORCED.

In referring to the order, as reported, of the 15th March,* in regard to the salmon fisheries, this mention of dams would be supposed to apply to the present method

Washington. March 15.—In company with D. Brown Goode, of the United States Fisheries Commission, Senator Stockbridge, Chairman of the Committee on Fisheries, to-day called upon Secretary Windom with reference to the Act recently passed for the protection of the salmon fisheries in Alaska. The Act makes it unlawful to erect or maintain any obstruction in the rivers of Alaska with the purpose or result of impeding or preventing the ascent of salmon to their spawning grounds, and affixes a minimum penalty of 250 dollars a day for violation thereof. Last year, it is said, certain parties, by the aid of dams, captured millions of fish, and they are reported to be making ready for another campaign this year. The matter has been referred to the Law Officers of the Treasury Department, who will at once prepare the necessary orders for carrying into effect the provisions of the Act. The last section of the Act, Senator Stockbridge says, will be carried out by the President in due time. Its adoption was a matter of serious concern to Congress, and its phraseology was changed by the Senate on Foreign Relations, and it was enacted into law as follows.

of taking salmon, called fish-traps. This order, if carried into effect, will undoubtedly work great hardships to the salmon canneries now engaged in this business in Alaska.

Section 3 reads that the publication of notice of seizure and confiscation of vessels shall be published one month in the papers at each United States port of entry on the Pacific coast. With regard to this publication, it is earnestly hoped that it shall be plain, and clearly define just what the Government claims as its domain, whether it claims the shore-line or the whole Behring's Sea. In 1887 similar notices were published in San Francisco, but did not define what the Government claimed. In this year the Government vessel "Richard Rush," commanded by Captain Shepard, seized ten or twelve American and English schooners engaged in fur-seal hunting in the Behring's Sea, taking them wherever found, about 15 miles from land being the nearest that any was found and seized. One English vessel was 98 miles
289 from land when seized, and others from 20 to 70 miles from land, and in no case was any vessel within the 3-mile limit, which is supposed to be what a nation holds and controls of the high seas. Captain Shepard in one instance when remonstrated with said: "We do not care where you are, whether 1 mile or 500 miles from land, we are going to take you anywhere in the Behring's Sea." This high-handed proceeding on the part of our Government caused a great deal of criticism from our newspapers and public men, and the public sentiment, wherever the case was fully understood, was that these seizures were illegal and could not be sustained. In 1888 the "Richard Rush" left San Francisco the 3rd July for its cruize in the Behring's Sea, and it was currently reported that the Captain's instructions were the same as in 1887. Upon the vessel's arrival at Ounalaska this policy was changed, and no vessels were seized in 1888, the supposition being that none were found within the 3-mile limit. By this action the Government receded from the grounds taken in the year 1887, thereby practically admitting that the seizures of 1887 were wrong and illegal. Great injustice was done to the owners of American vessels engaged in this business in 1888 by the withholding of what the order was to be with regard to the Behring's Sea until the arrival of the "Richard Rush" in Ounalaska, thereby keeping out the American vessels. The English masters at Victoria claim that they had advices from their Government at Ottawa, that no seizure would be made outside the 3-mile limit. The result was that the English vessels went in, while the American vessels stayed outside. Hence this publication should by all means be explicit on this point in order that no one can be misled as they were last year.

We now come to that part of the Revised Statutes (section 1956)* where the killing of any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof, it reads:

"Any person guilty thereof shall, for each offence, be fined not less than 200 dollars nor more than 1,000 dollars, or imprisoned not more than six months, or both, and all outfits confiscated."

We ask, was there ever in the whole history of the world, a Law passed that showed quite the injustice that this does? Can you find its parallel? We doubt it when you look at the actual offence as compared with the value of the property taken. For instance, a miner on the Yukon kills a mink, its market value being less than 1 dollar, he is subject to a fine of possibly 1,000 dollars and imprisonment for six months, with the confiscation of his boats, blankets, provisions, &c. The same Law would apply to a prospector should he kill a beaver or a bear and use it for food: both are fur-bearing animals, and are common in Alaska.

The question comes up—for what reason has such a Law been passed? Is it to protect the fur-bearing animals of Alaska?† On the face of it, it would seem so, but

*Section 3. That Section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominions of the United States in the waters of Behring's Sea, and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation and cause the same to be published for one month in at least one newspaper, if any such there be published, at each United States port of entry on the Pacific coast, warning all persons against entering said waters for the purpose of violating the provision of said section, and he shall also cause one or more vessels of the United States to diligently cruize in said waters and arrest all persons, and seize all persons found to be, or to have been engaged in any violation of the laws of the United States therein.

†Section 1956 of the Revised Statutes is as follows: "No person shall kill any otter, mink, marten, sable or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof, and every person guilty thereof shall, for each offence, be fined not less than 200 dollars nor more than 1,000 dollars, or imprisonment not more than six months, or both, and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section, shall be forfeited, but the Secretary of the Treasury shall have power to authorize the killing of any such

really such is not the case. A Law like this has a tendency to discourage all parties from going to Alaska to trap, hunt, prospect for mines, and this is what is wanted by those who control the trade of Alaska. It is not desirable that Alaska should become settled, and its resources fully developed. It is more desirable to their interests that white men should be kept away, and for this reason a Law like this is pushed through by some means or other, which on the face of it looks sincere, but when understood shows plainly the injustice of it, and the detriment to the best interests of Alaska, injustice to all residents of Alaska, and to all parties who would like to go there. It is an understood fact that no vessel can go to Alaska for trade and make a success; it is impossible to buy furs from the natives to any extent. Why is this? Simply, when a native sells his furs to an outside trader, he is cut off from trading at the various ports, and is virtually considered an outcast, hence they dare not do it. The longer that white men are kept out of Alaska, so much the longer this trade is controlled. White hunters and traders hunt and send their furs where they choose, hence it is desirable that all such persons should be kept out if possible. It seems that these Laws are so framed in order to exclude competition and retard the development of Alaska instead of developing its resources as they should be, and open this vast country for the benefit of the whole people and not for the exclusive use of a few rich and powerful Companies. An earnest appeal is made that these Laws shall be amended so that a white man can at least live in the country without being a criminal. Simple justice asks this, as the only practical resources of Alaska are its furs, fisheries, and mines.

No. 206.

Colonial Office to Foreign Office.—(Received August 10.)

DOWNING STREET, *August 9, 1889.*

SIR: With reference to the letter from this Department of yesterday I am directed by the Secretary of State for the Colonies to transmit to you, for communication to the Marquis of Salisbury, a copy of a further telegram from the Governor-General of Canada, respecting the seizure of the "Black Diamond" and "Triumph":

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It appears from a telegram, dated the 8th August, from Ottawa, that all additional information respecting "Black Diamond" and "Triumph" is being sent to-day; steps have been taken to secure sworn affidavits as to exact location of seizures and boarding of those vessels.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 207.

Colonial Office to Foreign Office.—(Received August 15.)

DOWNING STREET, *August 14, 1889.*

SIR: With reference to the letter from this Department of the 3rd instant respecting the seizure by the United States authorities of the "Black Diamond" in the Behring's Sea, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, and for such action upon it as his Lordship may think proper, a copy of a

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mink, marten, sable or other fur-bearing animals, except fur-seals, under such regulations as he may prescribe, and it shall be the duty of the Secretary to prevent the killing of any fur-seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law, nor shall he grant any special privileges under this section."

further letter from the High Commissioner for Canada inclosing a copy of a Petition to the President of the United States from the owners of the American schooner "San Diego," which appears to support the Canadian view respecting such seizures.

The Orders in Council of the Canadian Government referred to Sir Charles Tupper were forwarded to the Foreign Office in the letters from this Department of the 18th August last year and the 9th instant respectively.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 207.]

Sir C. Tupper to Lord Knutsford.

9, VICTORIA CHAMBERS, *Westminster, London, August 9, 1889.*

MY LORD: With reference to my letter of the 2nd instant on the subject of the seizure of British vessels in the Behring's Sea by the United States, I now have the honour to transmit, for your Lordship's information, a copy of a Petition to the President of the United States from the owners of the American schooner "San Diego," which seems to support the Canadian view of the matter.

With regard to the American proposal for the establishment of a close time for the Behring's Sea in relation to the seal-fishing, I should like to refer your Lordship to the Order in Council of the Canadian Government, dated the 4th July, 1888, which deals very fully with this part of the question.

I think both Lord Salisbury and your Lordship, after a careful perusal of this document, will come to the conclusion that the adoption of the proposal that is discussed would practically mean the exclusion of our fishermen from the Behring's Sea, while, at the same time, it would operate entirely to the benefit of the Alaska Commercial Company, with whose privileges it would not interfere. It also demonstrates, in my opinion, that there is no scarcity of seals; that any indiscriminate slaughter that takes place occurs on the islands on which the American Company pursues its operations, and that the seal-fishing industry might be extended considerably without any appreciable effect upon the supply. Supposing, however, that a necessity was found for some measures for protecting the seals, a proposition of the kind should be made upon a proper basis, which would operate equally against all, and not be a partial measure such as that suggested by the American Government, the adoption of which would be tantamount to the exclusion of British vessels from participation in the industry.

I have no doubt that your Lordship has seen by this time the further Order in Council of the Canadian Government approved by his Excellency the Governor-General on the 29th June, 1889. This also contains information, much of it from American sources, proving beyond doubt the justice of the British claim to equal rights with the United States in the open waters of Behring's Sea. The right of the American Government to make Regulations with regard to the fishing on
291 the islands and the mainland, and in the waters within the 3-mile limit from the shore, is not disputed, but before the purchase of the territory, the United States dissented in the strongest possible manner to any claim of exclusive jurisdiction by another Power in the open waters of the sea in question, and it is only comparatively recently that they have advanced their claim to regard the open sea as United States property. Her Majesty's Government have always resisted such a contention, and I cannot doubt that they will now take such steps as will insure the prompt settlement of the question by the withdrawal of the United States Government from the position they have taken up, and not only thus enable British vessels to engage peacefully, without molestation in the fishery industry, in accordance with the rights conceded by international law, but also demand reparation in favour of those persons whose vessels, equipment, and cargo have been seized, and of those who have in other ways suffered injury in consequence of the harsh, arbitrary, and unjust acts of the United States Revenue cruizers.

I have, &c.

(Signed) CHARLES TUPPER.

[Inclosure 2 in No. 207.]

Messrs. Handy and Co. to the President of the United States.

32, CLAY STREET, *San Francisco.*

Under the provisions of Article 2, Section 2, of the Federal Constitution, as expounded in six opinions (Attorneys-General, p. 393), and in the case of *ex parte* Garland (4 Wall, 333), we herewith respectfully apply to you to remit the forfeiture adjudged against our vessel, the American schooner "San Diego," her tackle, apparel, furniture, and cargo, in the District Court of the United States for the District of Alaska, as appears by the papers on file in the office of the Secretary of the Treasury, which, by reference, are made a part of this Petition.

The offence for which our vessel and cargo were judicially condemned was the killing of fur-seals in the waters of Alaska, contrary to the Statute in such cases made and provided. Remission and pardon are invoked upon the following grounds:

1. That the offence was not, in fact, committed.

2. That, owing to the distance and inaccessibility of the place of seizure, trial, and condemnation, and the ignorance of the master of said schooner, a fair opportunity did not offer itself to us to make an adequate defence against the condemnation.

3. That although the trial and condemnation were had under a belief shared by all parties to the proceeding that an appeal would lie for either party against the decision of the District Court of Alaska, and although such an appeal was duly taken in our behalf from the Judgment of Condemnation, it now appears exceedingly doubtful whether the Act of May 17, 1884, which organizes a judicial system for the territory of Alaska, permits rights of appeal in any case not strictly criminal.

4. Because the Attorney-General, in opinions rendered to the Secretary of the Treasury under dates of the 19th March and 16th April, 1887, has held that the remissory power conferred upon the Secretary of the Treasury by sundry provisions of the Revised Statutes does not extend to our case.

From the foregoing summary of the grounds of this Petition, it will be seen that we are in danger of being for ever deprived of our property upon a doubtful state of facts without a full though a legal hearing, under an apparently mistaken belief on the part of the trial Judge and Council that means to review the decision of such Judge had been provided, and with no other effectual remedy now left to us than to resort to the constitutional power of the President to grant pardons and remissions.

It has been said by Mr. Attorney-General Cushing (6 Opin., 488), that the power of remission is proper to be exercised in cases where doubtful questions of law are involved, or where parties are so situated that a due process of law cannot or has not been had.

Our case is at least within the spirit of this opinion on both points, firstly, because we had not had, and seemingly cannot have, one fair day in Court, and secondly, because if our vessel had been engaged in killing seals in the waters alleged (a fact which we deny), it would be extremely doubtful if such killing would be an offence against any law of the United States.

Upon this point we refer to the decision of Mr. Secretary Boutwell, of the
292 Treasury Department, rendered in April 1872, wherein he held that the taking of fur-seals in Behring's Sea was not unlawful unless attempted within a marine league from the shore. We need not remind your Excellency that the same position is held to-day by the Government of the United States in the matter of the Canadian fisheries, and that the three British vessels lately seized and judicially condemned for seal killing in Behring's Sea have been released in obedience to the uniform and unswerving doctrine of our Government upon the question of what constitutes the high seas. When we add that our vessel was seized in the same waters at the same time, and condemned in the same Court upon precisely the same grounds as were these British sealers, recently set free, with title restored to their owners, we believe that we have stated full, sufficient, and reasonable grounds why the repudiated headland doctrine should not lie against us. There is no pretence set up in the evidence submitted on the part of the Government that our vessel was sealing within the 3-mile limit, or was actually caught catching seals within the waters of Behring's Sea. In the case of the "Ocean Spray," reported in 4 Law., p. 105, Judge Deady held that, to constitute a violation of Section 1956, Revised Statutes, under which law our vessel was condemned, there must be an actual killing established.

Permit me to observe that if the forfeiture in our case shall be permitted to stand, the anomalous spectacle is presented that alien persons and foreign vessels are permitted by our Government to pursue an industry and receive the mercy of pardon denied to citizens and vessels of the United States. No such distinction in matter of right and law between aliens and American citizens has ever been drawn by a a Federal Administration.

The facts of this case, as shown by the papers in the Treasury Department, which the Secretary of the Treasury has not been permitted to examine by reason of the *adverse opinion of* the Attorney-General upon the question of his power to remit, *are as follows:*

The American schooner "San Diego," of 36 tons burthen, owned by Messrs. L. N. Handy and Co., American citizens and merchants at San Francisco, was cleared at that port for a general hunting and fishing voyage in the North Pacific Ocean, on or about the 28th February, 1886. She commenced seal killing off the Farallone Islands, about 20 miles from the Golden Gate; continuing north, she hunted and fished on that ocean up to Ounalaska Pass, which she entered about the 24th June. Turning westward toward Copper Island, in the Russian waters of Behring's Sea, then heading eastward and south of the Aleutian Group, she made her way into the Pacific Ocean, and sailed eastward till Ounalaska Pass was again sighted. While operating outside this Pass, a coming storm induced the vessel to run through the Pass into Behring's Sea for safety, where she was befogged and without observation for three days. When the fog lifted, she was found to be off Ounalaska Island, 12 or 15 miles from any land. Here she was boarded from the Revenue-cutter "Corwin" [¶] 17th July, 1886, and was seized because the boarding officer mistook the purpose of the master's answer, that he had killed a few seals in Behring's Sea; the master referring to some thirty seals taken near Copper Island, in Russian waters, and the boarding officer supposing him to admit that he had been sealing within the water boundary of the United States. The boarding officer was also misled by the presence of skins of recently killed seals on board, the explanation being that some twenty-two sealskins had been taken in the Pacific Ocean, off Ounalaska Pass, before running in for shelter, and had not been salted, because rough weather and fog had prevented the careful process of cleaning, salting, and folding from being carried upon the deck of so small a vessel as the "San Diego."

It appears that the owners of the "San Diego" had expressly instructed the master not to interfere with the privileges of the Alaska Commercial Company, nor violate the law in any particular, and, although we hold that, under the ruling of Mr. Secretary Boutwell, the diplomatic contention of one Government, and the doctrine recognized in the recent release of the British sealing vessels, our vessel might lawfully have taken seals in the very place where the officer found her with fresh sealskins on board, we are obliged to adhere to the contention that she did not take any seals in that place nor anywhere thereabouts, because the evidence shows that not a skin was obtained in the whole of Behring's Sea, except near Copper Island, in the Russian jurisdiction. When discovered by the Revenue-cutter the vessel was entirely inactive, her sealing boats lashed on deck, waiting for an opportunity to get out upon the ocean to continue her business.

It would appear from the testimony of Lieutenant Cantwell, of the Revenue-cutter, that he asked the master of the schooner if he did not know it was illegal to take seals around here, and he answered that he did not know that it was against the law so long as he kept a marine league from the shore. This answer suggests a possible intention of taking seals in that vicinity if opportunity offered, but the fact is that no seals were taken, nor does it appear that any could have been taken up to the time of the seizure of the vessel if the wish and purpose to take them
293 had existed. It is very evident from the whole record that we, the present petitioners and sole prospective losers by the seizures of the vessel, never intended nor contemplated the taking of a single sealskin on that voyage in an unlawful or clandestine manner. Having openly cleared our vessel for a hunting voyage in the North Pacific, we knew that, in due course of administration, that fact would reach the Alaska Company, and the Revenue vessels employed for their protection; hence it would be folly on our part to assent beforehand to any dubious or risky transaction by our agent, the master.

Your Excellency will not fail to consider the United States Attorney-General for Alaska against our application for the restoration of our vessel and cargo. The grounds of his opposition and our answers are as follows:

1. The finding of the vessel in Behring's Sea, equipped for fishing, with fresh skins on board, together with the admission of the master that a few had been taken in Behring's Sea, raises a presumption against our present evidence that no seals were taken in Behring's Sea except near Copper Island. To this we answer, the vessel was openly fitted and dispatched for seal-fishing; that the fresh skins on board could not reasonably have been cleaned, salted, and packed before seizure, and that the master had reference to his sealing operations near Copper Island when he said he had taken a few seals in Behring's Sea.

2. The District Attorney says that the answer of the master, that he thought seal-fishing lawful outside of a 3-mile limit, raises a presumption that he had been fishing outside, though within the water boundary of the United States; to which we reply that this argument makes for rather than against our present application, because if the master thought he had the right to seal outside the 3-mile limit, his doing so would be innocent, in fact even if illegal at law.

3. Says the District Attorney, the allegation that the vessel was driven through the Pass into Behring's Sea is improbable, and throws suspicion upon the merits of the case.

This unimportant observation doubtless arises from confounding the voluntary passage of the vessel through the Pass to escape a storm, with a supposititious driving of the vessel through the Pass by the wind.

4. Says United States Attorney that, although the owners of the vessel were represented by Counsel, they did not produce at the judicial hearing the important testimony now offered *ex parte*.

This argument is met by the circumstance that the owners of the vessel had no opportunity to select Counsel for themselves, nor to influence the production of evidence and arguments in their behalf in that distant locality, and hence it would be hard to hold them responsible for a failure to produce evidence at the trial, which they admit the Counsel retained for them by the captain ought to have produced, and for the non-production of which said Counsel have been dropped from the case. The captain who employed the Counsel at Sitka thought his own testimony ought to have been taken, but he did not feel qualified to question the judgment of his attorneys.

5. The District Attorney believes the merits of the case can be better determined on the pending Appeal from the judgment than by an executive proceeding.

This argument is refuted by circumstances that, so far as the Statute Book shows, there is no Court in which the Appeal, taken at large to the Circuit having appelative jurisdiction, can be located or determined.

6. That the power to remit is an extraordinary one, and should be used restrictingly.

This argument of the District Attorney has been long since answered by the Supreme Court, which has said that the laws imposing penalties are not to be construed strictly against persons or property for the benefit of the revenue, and that the laws conferring powers of remission are remedial in their nature, and should be liberally used for the benefit of those who have innocently incurred the sanction of the penal law. (10 Wheaton, 841, United States *v.* Morris, 106.)

In conclusion, we remind your Excellency that no seals were in fact taken in or near the place where the Revenue officer supposed the "San Diego" had been sealing; that, in point of law, no unlawful sealing was done by our vessel; that the British vessels seized at the same time, in the same locality, for the same cause, and judicially condemned to forfeiture in the same court, by the same Judge, and under the same circumstances as our own, have been released upon the ground of innocency; that without any actual fault of our own, we have, in fact, been deprived of a fair trial in the Court below, and, to all appearances, are left without further judicial remedy; that the remissory powers of the Secretary of the Treasury, by a probable oversight in the Statutes, do not reach our case; that personally we have been free from all evil intent, fault, or negligence throughout; and that while our agent, the master, did not take the seals within the American boundary of Behring's Sea, he might justly have done so in view of the ruling of Mr. Secretary Bout-
294 well, the diplomatic action of our own Government from the first to the present moment, and the general belief of merchants, lawyers, and all persons interested in the seal fisheries that such fishing is lawful in any part of Behring's Sea, except near the islands of St. Paul, St. George, or within 3 miles of the shore.

Having filed with the Secretary of the Treasury the papers upon which we rely to sustain the position taken therein, and convincing evidence of our good standing as citizens and merchants, we pray your Excellency to take this Petition into prompt and favourable consideration, and release us henceforth from the serious and continuing loss that we have undeservedly suffered, and are suffering, by the seizure and retention of our vessel and cargo, in which no third parties are interested as informers or captors.

Respectfully submitted,

(Signed) L. N. HANDY AND CO.,
Commission Merchants.

No. 208.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *August 17, 1889.*

SIR: I am directed by the Marquis of Salisbury to request that you will state to Secretary Lord Knutsford that, in his Lordship's opinion, it is very desirable, pending the receipt of full details in regard to the recent seizure in Behring's Sea by the United States Revenue-cutter *"Rush" of* the British vessels "Black Diamond" and "Triumph," that

steps should be taken to proceed at once with the appeals to the Supreme Court of the United States in the cases of the British vessels whose sealing operations were stopped under similar circumstances in 1886.

I am to request, therefore, that you will suggest, for Lord Knutsford's consideration, that a telegram should be sent to the Governor-General of Canada to the effect that, it being very unusual to press for diplomatic redress for a private wrong, so long as there is a reasonable chance of obtaining it from the Tribunals of the country under whose jurisdiction the wrong complained of has occurred, Her Majesty's Government consider that they would be in a stronger position for dealing diplomatically with the Behring's Sea cases if appeals on the cases of seizure which took place in 1886 were pushed on.

I am, &c.

(Signed) T. H. SANDERSON.

No. 209.

Mr. Edwardes to the Marquis of Salisbury.—(Received August 19.)

WASHINGTON, *August 5, 1889.*

MY LORD: On the 1st instant I had the honour to inform your Lordship by telegraph that the newspapers reported the seizure on the 11th ultimo by the United States Revenue cruizer "Rush" of the British schooner "Black Diamond," sealing in Behring's Sea, being at the time of the seizure 70 miles from land.

It was also reported that another British schooner, the "Triumph," was also boarded by the Captain of the "Rush," but no arrest was made, the seal-skins on board the "Triumph" having been captured in the Pacific, and not in the Behring's Sea.

I have not up to the present date received any official information on the subject. There is, however, no doubt about the truth of the fact that the seizure of a British vessel has been made, and that another British vessel was stopped and searched, both occurrences taking place on the high seas, on the grounds that they had no legal rights to sealfish in those seas.

The question of the exclusive jurisdiction of the United States over the Behring's Sea is thus reopened, but it does not appear that any new feature in the case has presented itself. However, a novel situation is produced by the fact which is reported, that, after the seizure of the "Black Diamond," one of the crew of the United States cruizer having been placed on board of her by the Captain of the "Rush," with orders to take her to Sitka, the Captain of the British vessel ignored the instructions of the man in whose charge she was supposed to be, and sailed for Victoria, British Columbia, where she is reported to have arrived safely. Had she gone to Sitka, she would, in all probability, have been declared by the United States District Court of Alaska a lawful prize. As your Lordship will remember in the case of the
295 British sealers which were seized during the last two years, and after seizure were condemned by the United States District Court of Alaska, the United States Government agreed to release them on their owners giving bond to appeal to a higher Court. Few, if any of them, availed themselves of this permission, and they were ultimately sold by public auction. I have been given reason to believe by a lawyer

of some standing in this city, that through some defect in the legislation affecting the territory of Alaska, the only appeal that could have been made in the matter would have been to the Supreme Court of the United States.

I cannot anticipate that the United States Government would try and justify before that Court the seizures by a pretension that the Behring's Sea is not an open sea. However much their action and the action of Congress may appear to put forward and maintain such a pretension, it is the general opinion that the Supreme Court would not hesitate to pronounce itself against it.

On what the United States Government would base their claim to exclusive seal-fishing rights in the Behring's Sea it is difficult to foresee, but in conversation a short time ago with a politician of very high standing under the late Administration, I learnt that the following argument has been brought forward and used by one or more of the most prominent lawyers in the Houses of Congress. They maintain that the "seal nation" in those seas has its domicile, breeding-grounds, &c., on United States territory, where it is carefully preserved and protected by United States law, and consequently they do not admit that the seal loses its nationality when its habits cause it to temporarily absent itself from its home.

From what I gathered from the gentlemen above referred to, I feel confident that this was one of the chief arguments which might have been used by the United States Government had the matter been brought up to the Supreme Court during the time that the late Administration was in power.

I have, &c.

(Signed) H. G. EDWARDES.

No. 210.

Colonial Office to Foreign Office.—(Received August 20.)

DOWNING STREET, *August 19, 1889.*

SIR: With reference to your letter of the 17th instant, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a telegram which has been addressed to the Governor-General of Canada in connection with the Behring's Sea seizures in 1886.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 210.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

COLONIAL OFFICE, *August 18, 1891.*

It is very unusual to press for diplomatic redress for a private wrong as long as there is a reasonable chance of obtaining it from the Tribunals of the country.

Her Majesty's Government consider that they would be in stronger position for dealing diplomatically with Behring's Sea cases if appeals on 1886 seizures were *pushed on.*

No. 211.

Colonial Office to Foreign Office.—(Received August 21.)

DOWNING STREET, *August 20, 1889.*

SIR: With reference to previous correspondence I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, with its inclosures, containing information respecting the recent seizure of the schooner "Black Diamond" and the detention of the schooner "Triumph" in Behring's Sea.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 211.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, *August 8, 1889.*

MY LORD: In transmitting to your Lordship such information as I have been able to procure up to the present time respecting the recent seizure of the schooner "Black Diamond," and the detention of the schooner "Triumph," in Behring's Sea, I deem it my duty to bring to your notice the very strong feeling which is arising throughout the Dominion consequent upon the continued seizures of Canadian vessels upon the open sea, and their condemnation in the United States Courts of law.

A sense of irritation is growing up in the public mind not only against the Government of the United States, but against the Imperial Government, which may at any moment result in serious trouble, and there is reason to apprehend that, if the supposed inaction of the Home Government continues, the sealers may be driven to armed resistance in defence of what they believe to be their lawful calling, and it would be difficult, if not impossible, for the Dominion Government to prevent such a state of affairs.

I had the honour recently to inclose to your Lordship a Minute of the Privy Council containing a very full recital of the past history of the so-called Behring's Sea question, and I must express the earnest hope that your Lordship will move the Foreign Office to take such steps as may tend to an early settlement.

Up to the present time there has been every disposition on the part of the Canadian people to rely on the maintenance by the Imperial Government of the international rights which the Foreign Office is charged with the duty of protecting, and if the question of the free navigation of the North Pacific (or Behring's Sea) were fully maintained, I do not think that any reasonable measures which could be proposed for the protection of the (so-called) seal fishery would meet with a refusal here.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 211.—Telegraphic.]

Lieutenant-Colonel John Tilton to Sir John Macdonald.

VICTORIA, *July 30, 1889.*

Sir John Thompson requests that the following telegram, just received, addressed to Honourable Mr. Tupper from Victoria, signed E. Crow Baker, may be repeated to you.

"British schooner 'Triumph' arrived yesterday evening from Behring's Sea. Master reports seizure of British schooner 'Black Diamond' with catch of sealskins by American Revenue-cruizer 'Rush,' 70 miles off land. Boarding officer informed master that all vessels found with President's Proclamation and recent instructions (*sic*) issued by Secretary of Treasury (*sic*). 'Triumph' had no skins on board, and therefore escaped immediate confiscation. Is it not possible to afford protection to some twenty Canadian schooners still there prosecuting their legitimate business, and

liable to immediate seizure if not already seized? Steamer 'Sardonyx' leaves with coal for British war-ships now at Port Simpson on Thursday next. Please reply immediately what steps Federal Government will now take in the matter. Meeting to-day of those interested, who strongly urge this message. Senator Macdonald of Toronto heartily endorses action of owners here. In meantime sealing business interests completely paralyzed."

[Inclosure 3 in No. 211.]

Extract from the "Ottawa Evening Journal," of July 31, 1889.

THE SEALER SEIZURE.

San Francisco, Cala, July 30.—The steamer "Dora," from Behring's Sea, brings the first detailed news of the capture of the British sealer "Black Diamond," by the United States Revenue-cutter "Richard Rush," on the 11th July. The "Rush" overtook the "Black Diamond" and ordered her to heave-to. The captain of the "Black Diamond" refused. Thereupon the commander of the "Rush" ordered
297 a lowering of ports and running out of guns, which caused the steamer to heave-to. Captain Shepard and Lieutenant Tuttle boarded the English craft and asked for her papers. The officers of the "Black Diamond" offered no armed resistance, but refused to deliver the papers. Captain Shepard at once broke open the cabin, and forced the hinges off the strong box and the captain's chest, thereby securing the papers. A search of the vessel disclosed 10,000 seal skins, which had been taken in Behring's Sea. Captain Shepard placed a non-commissioned officer from the "Rush" in charge of the "Black Diamond," and ordered the vessel to be taken to Sitka to await further instructions. The captain of the "Black Diamond" stated that when in Victoria he had been ordered to pay no attention in case he was overtaken by the "Rush" and requested to heave-to. He said he would not have surrendered if the "Rush" had had an inferior force to his own. On the 1st July the schooner "Triumph" was also boarded by Captain Shepard, but no arrest was made, the skins on board having been captured in the Pacific. A passenger who arrived on the "Dora" said: "On our way down from St. Paul's Island we saw six sealers and the "Rush" pursuing. Undoubtedly by this time the "Rush" has made additional captures."

Captain Shepard's Report.

Washington, July 30.—A telegram from Captain Shepard, commanding the Revenue-steamer "Rush," says he seized the "Black Diamond," for violation of section 1956 of the revised statutes. This section was incorporated in the President's Proclamation of the 21st March, on the subject of seal fisheries. It forbids the killing, by unauthorized persons, of seal and other fur-bearing animals within the limits of Alaska or in the waters thereof. The penalty provided is a fine of from 200 dollars to 1,000 dollars, or imprisonment for not exceeding six months, or both, and the forfeiture of the vessels violating the law.

[Inclosure 4 in No. 211.]

Extract from the "Ottawa Citizen" of August 3, 1889.

BEHRING'S SEA TROUBLES.

[By telegraph to the "Citizen."]

Washington, 2nd.—The seizure of the British sealing-vessel "Black Diamond" by the Revenue-cutter "Rush" is believed to be the beginning of a series of seizures which must lead to some definite understanding between the United States and Great Britain on the subject. Great Britain has emphatically expressed the opinion that the United States' Government has no jurisdiction over the Behring's Sea outside the 3-mile limit. Our Government proceeds on the assumption that it has a right to protect the seal in any part of the Behring's Sea, although the State Department has

r stated that assumption in direct terms, and all its official utterances on the ject carry the conviction of the Department's consciousness of inability to estab- the claim on the basis of any Treaty agreement or international law. Even the ss of Congress do not anywhere assert a claim over the whole of Behring's Sea, t only over Alaskan waters or the waters adjacent to Alaska and to our islands in Behring's Sea. Indeed, the one plea upon which the United States Government cap- tures sealing-vessels all over the thousands of miles of water within Behring's Sea is that the welfare of mankind requires that the seal shall be protected from poachers. The English Government agrees that the seal should be carefully protected and pre- served, but contends that it has a right to be consulted as to the method of protect- ing the seal on the open sea.

The United States Government is unwilling to take other Governments into part- nership in the business, because the seal really belongs to the Pribylov Islands, although it sometimes strays to distant waters to spend the winter. Nevertheless, when it comes to a crisis, this Government will probably have to admit that it has no right to say, independent of other nations, that seal shall not be taken 200 or 300 miles from shore. It would not be surprising if some serious collisions should occur between the seal-hunters and our Revenue-cutters. The sealers are out in numbers, and the seizures that are sure to be made this summer must bring things to a crisis and lead to a settlement of right in the matter. Sir Julian Pauncefote will have big business to attend to when he returns to Washington. He will doubtless 296 bring back with him some urgent representations from Lord Salisbury. Sir Julian said before sailing for England that up to that time the subject had not been talked of at all between himself and the State Department here.

The seizure and search of the "Triumph," which was afterwards released because no sealskins were found on board, may be a more serious matter than the seizure of the "Black Diamond," for it involved the right of the United States to seize and search suspected vessels outside of what are conceded to be the limits of the juris- diction of the United States.

Bangor, Me., 1st.—Secretary Blaine passed through this city this evening *en route* to Bar Harbour. A reporter called his attention to a declaration in a Boston paper that it would be impossible for the national Government to "sustain the pretension of Secretary Blaine that Behring's Sea is distinctly American water." The Secre- tary of State simply remarked that it might be well for the paper in question to indicate the occasion, official or unofficial, where he said anything at all on that point. Mr. Blaine added that everything done on the fur-seal question since the 4th of last March was in literal compliance with the directions contained in the Act of Congress which was approved by President Cleveland on the last day of his term.

[Inclosure 5 in No. 211.]

Extract from the "Ottawa Citizen" of August 6, 1889.

Victoria, B. C., 5th.—The most astonishing thing that has happened here since the foundation of the town was the arrival in the harbour yesterday of the "Black Diamond," Captain Thomas, which, on the 11th July last, was seized by the Ameri- can Revenue-cutter "Rush," for the alleged illegal capture of seals in Behring's Sea. Captain Thomas, the moment he stepped ashore, was met by the owners of the schooner, and to them he reported the facts connected with the interruption of his vessel's sealing trip. He sighted the Revenue-cutter "Rush" on the 11th July, 5 miles away. He was catching seals at the time, and was 70 miles off shore. He immediately made sail, intending to elude the cutter and avoid any possible trouble. The wind, unfortunately, was rather light, and the "Rush's" engines enabled her, inside of an hour, to overhaul the "Black Diamond." The Commander of the "Rush" at first signalled the schooner to heave to, but no attention being paid to the order by Captain Thomas, the "Rush" steamed almost alongside, her Com- mander shouting out his order for her to lay to. This he did three times, but Cap- tain Thomas still paying no attention to him, he steamed ahead of the "Black Diamond" and lay across her bows, compelling Captain Thomas to haul his vessel up sharply and lay to.

Then Lieutenant Tuttle, three other officers, and two boat-loads of Yankee sailors came aboard and began making an examination of the "Black Diamond" hold. Captain Thomas demanded an explanation, when Lieutenant Tuttle informed him that his vessel was under seizure for the illegal catching of seals, and demanding the "Black Diamond's" papers. Captain Thomas indignantly repudiated the charge that he was acting illegally, and refused to give up his papers. Lieutenant Tuttle argued, demanded, and threatened, and finally, after three distinct, emphatic refusals

on Captain Thomas' part, ordered his seamen to break open the cabin lockers and find what the Captain refused to give up. The papers were found, and Lieutenant Tuttle took possession of them, refusing to Captain Thomas' repeated demands to return them. An American sailor named John Hawkins was then left aboard by the Commander of the "Rush," who informed Captain Thomas that he and his mate were under arrest, that the schooner was to be taken to Sitka, that the crew were not to be detained; but that the vessel was to be delivered over to the United States Collector of the Port of Sitka, who would take whatever further action should be thought necessary by the American authorities. Written instructions to this effect were given to Hawkins, and, after a thorough search of the schooner, Lieutenant Tuttle, with his officers and men, departed, and shortly afterward the "Rush" steamed off toward some other vessels in sight. Captain Thomas said nothing to Hawkins, but putting up the port helm headed toward the Alaskan shore. Four days later the "Rush" was passed by the "Black Diamond," but did not hail her; the schooner was headed in the proper direction, and there was no necessity for speaking to each other. But the next day the "Black Diamond" reached the harbour of Ounalaska, in the island of that name, forming one of the Fox Islands in the Aleutian group, and went inside in the hope of finding there an English man-of-war. The place was deserted however, except by natives, so Captain Thomas, without any ado, turned his vessel about, heading for the passage leading into the Pacific Ocean, and, reaching that, headed straight for Victoria, where he arrived
299 as described above. Captain Thomas said he wasn't going to let any one Yankee sailor take him captive into Sitka, and, as seaman Hawkins appears to have had very little to say about the matter after the "Rush" departed, the Canadian kept his determination.

There was no violence on the "Black Diamond." Hawkins, as soon as he saw that Captain Thomas didn't intend to sail the schooner into Sitka, seems to have made some sort of a protest, ineffectual, of course, and then settled down to a realization of the truth of saying that "there's many a slip 'twixt the cup and the lip." He was quite hopeful, when he came ashore to-day, that he wouldn't be swung from a yard arm for not obeying orders. In the face of his predicament he was in fact remarkably cheerful. He proceeded at once to the American Consulate, where, handing over his instructions to the United States Consul, he made a statement of what happened, as he saw it, since the "Rush" parted with him. His history of the affair has been telegraphed to the authorities at Washington. The utmost satisfaction is felt here at the escape of the "Black Diamond," particularly among the sealers and the owners of sealing-vessels, and Captain Thomas is being made a lion of for his conduct in the matter.

[Inclosure 6 in No. 211.]

Extract from the "Ottawa Citizen" of August 6, 1889.

IS IT A BACKDOWN?

Washington, District of Columbia, 5th August.—[*Special.*]—In some quarters the running away of the "Black Diamond" is looked upon as nothing more or less than a surrender of the position taken by the United States on the Behring's Sea question. It was so stated this morning by an ex-official of the Government, and, upon my asking for his reason for such a view, he simply referred to the course pursued by the Treasury and State Departments in 1888 as a sufficient answer. According to his theory, the seizure of the "Black Diamond" was all for effect, and her arrival at a British port was nothing more nor less than what was expected. The Treasury people with whom I conversed on the subject scouted this position as most absurd. They state that Captain Shepard was carrying out his instructions, and would never have seized the "Black Diamond" unless he was convinced that the laws of this Government on the fur-seal matter had been openly and unquestionably violated. Full particulars by mail are to reach the Treasury Department not later than Wednesday next. Captain Shepard will explain the seizure of the "Black Diamond," and this, the Treasury people say, will fully explain his action on breaking open the cabin and taking possession of the ship's papers. The action of Captain Shepard has given rise to considerable comment in official circles. One of the gentlemen with whom I talked, and who is well informed, said the "Black Diamond" will be seized the first time she appears in American water for this same offence, but it will be a long time before the opportunity for such a seizure occurs, and there is no law by which the case can be reached otherwise. The vessel was seized and got away, and that is the whole story in a nut shell. The British Chargé d'Affaires has not received any information as yet regarding this new development in Behring's Sea.

[Inclosure 7 in No. 211.]

Extract from the "Toronto Globe" of August 1, 1889.

MORE DETAILS.

Victoria, British Columbia, 31st July.—Captain McLean, of the British sealer "Triumph," which has arrived here from Behring's Sea, is reticent about affairs in the north. It is stated by others on the vessel, however, that when the "Triumph" was sighted by the "Rush" there were thirty seals dead lying on the "Triumph's" deck. These are hurriedly skinned, and the pelts hidden among a large quantity of salt. This salt also formed a heavy coating to about 800 sealskins which lay in the bottom of the schooner. Lieutenant Tuttle made an examination, but seeing nothing but salt departed. The men on the "Triumph" say that Captain Dodd, of the "Mac," had said he would fire on any American officer attempting to board his vessel. Lieutenant Tuttle told Captain McLean he had seen five schooners entering Behring's Sea on the 4th July, viz., "Maggie Mac," "Triumph," "Mary Ellen," "Lillie L.," and "Black Diamond." The latter was captured, but the fate of the others is unknown. The "Corona" arrived to-day. Captain Carroll says when he left Juneau, Wednesday, the British men-of-war "Swiftsure," "Icarus," and "Amphion" were there; they left for Port Simpson on the following day. The "Corona" heard nothing of the seizures.

A number of prominent sealing men waited on the Captain of the British man-of-war "Champion," which sailed to-day for the north to join the fleet, and gave him full particulars in writing. He will convey them personally to Admiral Heneage. A deputation also waited on the Honourable John Robinson, Provincial Secretary; he has telegraphed to Ottawa demanding protection of the Imperial Government. Telegrams also have been sent by the most prominent public men of the province. The action of the Imperial Government is anxiously awaited.

No. 212.

The Marquis of Salisbury to Mr. Edwardes.—(Substance telegraphed.)

FOREIGN OFFICE, *August 22, 1889.*

SIR: Her Majesty's Government are in receipt of repeated rumours that British vessels have been searched and even seized in Behring's Sea, outside the 3-mile distance from any land.

No official confirmation of these rumours has yet reached Her Majesty's Government, but they appear to be authentic.

I have to instruct you to inquire of the United States Government whether any similar information has reached them.

You will also request that stringent instructions may be issued as soon as practicable to the officials of the United States to prevent the possible recurrence of such incidents.

I am, &c.

(Signed) SALISBURY.

No. 213.

The Marquis of Salisbury to Mr. Edwardes.—(Substance telegraphed.)

FOREIGN OFFICE, *August 22, 1889.*

SIR: When you make the communication to Mr. Blaine, as instructed in my previous despatch of this day's date, relative to the recent seizures of British vessels in Behring's Sea, I should wish you to remind him that clear though unofficial assurances were given last year by Mr.

Bayard that, pending the general discussion of the questions at issue between Her Majesty's Government and that of the United States, no further interference should take place with British ships in Behring's Sea at a distance from the shore.

You will find the record of such an assurance conveyed to me through Mr. Phelps in my despatch to Sir L. West of the 3rd April, 1888, and Sir C. Tupper informs me that Mr. Bayard gave personally similar assurances to him and the other members of the Commission sent to Washington.

Sir J. Pauncefote will be prepared to discuss the whole question when he returns to Washington in the autumn; but you should point out that a settlement will only be hindered should the United States authorities resort to measures of force against British ships beyond the 3-mile limit, against which Her Majesty's Government must necessarily protest as contrary to the principle of international law, which the United States have not only acknowledged, but have themselves firmly and publicly maintained.

I am, &c.

(Signed) SALISBURY.

No. 214.

Mr. Edwardes to the Marquis of Salisbury.—(Received by telegraph, August 26.)

NEWPORT, *August 26, 1889.*

MY LORD: I had the honour to receive on the 23rd instant your Lordship's two telegrams of the 22nd ultimo, instructing me to inform the Secretary of State that repeated rumours had of late reached Her Majesty's Government that United States cruizers have stopped,
301 searched, and even seized British vessels in Behring's Sea outside the 3-mile limit from the nearest land: that although no official confirmation of these rumours had reached Her Majesty's Government, there did not appear to be any reason to doubt their authenticity.

Your Lordship desired me at the same time to inquire whether the United States Government were in possession of similar information, and to ask that stringent instructions should be sent at the earliest moment, with the view to prevent the possibility of such occurrences taking place.

In speaking to Mr. Blaine on the above subject, your Lordship instructed me to remind him that Her Majesty's Government had received last year very clear assurances from Mr. Bayard, at that time Secretary of State, that, pending the discussion of the general questions at issue, no further interference should take place with British vessels in Behring's Sea, and, in conclusion, to state that Sir J. Pauncefote would be prepared, on his return to Washington in the autumn, to discuss the whole question, adding that Her Majesty's Government wished to point out that a settlement could not but be hindered by measures of force on the part of the United States.

I accordingly left at once for Bar Harbour (Maine), where Mr. Blaine has been passing the summer, and on the morning of the 24th instant I called on him, and made a communication to him in the above sense.

Mr. Blaine at once asked me to address to him a note containing the substance of your Lordship's instructions. He said that he was unable to give a reply until he had consulted with the President, but he promised that I should receive one to the note I was to address to him at a very early date.

All that he could say to me then was that similar rumours had reached the United States Government, which were probably authentic, although no official confirmation had been given to them, and he could say to me, in further reply to my communication, that he was of opinion that there was little divergence in the views of the two Governments on the points at issue.

On the termination of my interview with Mr. Blaine, I dispatched to your Lordship a telegram informing you of what had taken place, and then, in accordance with Mr. Blaine's request, I addressed to him a note, a copy of which I have the honour to inclose.

In the afternoon of the same day I met Mr. Blaine, and he told me that he had addressed a letter to me containing the reply he had made to me earlier in the day. I had the honour to forward to your Lordship by telegraph the substance of this reply, a copy of which is herewith inclosed.

This reply, as your Lordship will see, commences by saying that rumours of the search and seizure of British vessels in Behring's Sea by United States cruizers have reached the United States Government, and that although no official confirmation of those rumours has been received by them, they appear to be based on truth.

Mr. Blaine then goes on to say that it has been and is the earnest desire of the President of the United States to have such an adjustment as shall remove all possible ground of misunderstanding with Her Majesty's Government concerning the existing troubles in the Behring's Sea, and that the President believes that the responsibility for delay in that adjustment cannot be properly charged to the Government of the United States, and he begs me to express to your Lordship the gratification with which the Government of the United States hears that Sir J. Pauncefote will be prepared on his return to Washington in the autumn to discuss the whole question.

Mr. Blaine concludes his letter by saying that he has pleasure in assuring me that the Government of the United States will endeavour to be prepared for the discussion, and that, in the opinion of the President, the points at issue between the two Governments are capable of prompt adjustment on a basis entirely honourable to both.

I acknowledged Mr. Blaine's letter in a note, a copy of which is herewith inclosed (Inclosure No. 3), informing him that I should lose no time in bringing his reply to the knowledge of Her Majesty's Government, who, while awaiting an answer to the other inquiries I had the honour to make to him, would, I felt confident, receive with much satisfaction the assurances which he had been good enough to offer to me.

I have, &c.

(Signed) H. G. EDWARDES.

(Inclosure 1 in No. 214.)

Mr. Edwardes to Mr. Blaine.

BAR HARBOUR, *August 24, 1889.*

SIR: In accordance with instructions which I have received from Her Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to state to you

that repeated rumours have of late reached Her Majesty's Government that United States cruizers have stopped, searched, and even seized British vessels in Behring's Sea outside the 3-mile limit from the nearest land.

Although no official confirmation of these rumours has reached Her Majesty's Government, there appears to be no reason to doubt their authenticity. I am desired by the Marquis of Salisbury to inquire whether the United States Government are in possession of similar information, and further to ask that stringent instructions may be sent by the United States Government at the earliest moment to their officers, with the view to prevent the possibility of such occurrences taking place.

In continuation of my instructions, I have the honour to remind you that Her Majesty's Government received very clear assurances last year from Mr. Bayard, then Secretary of State, that pending the discussion of the general questions at issue, no further interference should take place with British vessels in Behring's Sea.

In conclusion, the Marquis of Salisbury desires me to say that Sir Julian Pauncefote, Her Majesty's Minister, will be prepared, on his return to Washington in the autumn, to discuss the whole question, and Her Majesty's Government wish to point out to the United States Government that a settlement cannot but be hindered by any means of force which may be resorted to by the United States Government.

I have, &c.

(Signed) H. G. EDWARDES.

[Inclosure 2 in No. 214.]

Mr. Blaine to Mr. Edwardes.

BAR HARBOUR, MAINE, *August 24, 1889.*

SIR: I have the honour to acknowledge the receipt of your letter of this date, conveying to me the intelligence "that repeated rumours have of late reached Her Majesty's Government that the United States cruizers have stopped, searched, and even seized British vessels in Behring's Sea outside the 3-mile limit from the nearest land."

And you add that, "although no official confirmation of these rumours has reached Her Majesty's Government, there appears to be no reason to doubt their authenticity."

In reply, I have the honour to state that the same rumours, probably based on truth, have reached the Government of the United States, but that up to this date there has been no official communication received on the subject.

It has been, and is, the earnest desire of the President of the United States to have such an adjustment as shall remove all possible ground of misunderstanding with Her Majesty's Government concerning the existing troubles in Behring's Sea, and the President believes that the responsibility for delay in that adjustment cannot be properly charged to the Government of the United States.

I beg you will express to the Marquis of Salisbury the gratification with which the Government of the United States learns that Sir J. Pauncefote, Her Majesty's Minister, will be prepared, on his return to Washington in the autumn, to discuss the whole question. It gives me pleasure to assure you that the Government of the United States will endeavour to be prepared for the discussion, and that, in the opinion of the President, the points at issue between the two Governments are capable of prompt adjustment on a basis entirely honourable to both.

I have, &c.

(Signed) J. G. BLAINE.

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303 [Inclosure 3 in No. 214.]

Mr. Edwardes to Mr. Blaine.

BAR HARBOUR, *August 25, 1889.*

SIR: I had the honour to receive yesterday your note, in which you have been good enough to inform me, with respect to the repeated rumours which have of late reached Her Majesty's Government of the search and seizure of British vessels in Behring's Sea by United States cruizers, that the same rumours, probably based on truth, have reached the United States Government, but that up to this date there has been no official communication received on the subject.

At the same time, you have done me the honour to inform me that it has been, and *is*, the earnest desire of the President of the United States to have such an adjust-

ment as shall remove all possible ground of misunderstanding with Her Majesty's Government concerning the existing troubles in Behring's Sea, and that the President believes that the responsibility for delay in that adjustment cannot be properly charged to the Government of the United States.

You request me at the same time to express to the Marquis of Salisbury the gratification with which the Government of the United States learns that Sir J. Pauncefote, Her Majesty's Minister, will be prepared, on his return to Washington in the autumn, to discuss the whole question, and you are good enough to inform me of the pleasure you have in assuring me that the Government of the United States will endeavour to be prepared for the discussion, and that, in the opinion of the President, the points at issue between the two Governments are capable of prompt adjustment on a basis entirely honourable to both.

I shall lose no time in bringing your reply to the knowledge of Her Majesty's Government, who, while awaiting an answer to the other inquiries I have had the honour to make to you, will, I feel confident, receive with much satisfaction the assurances which you have been good enough to make to me in your note of yesterday's date.

I have, &c.

(Signed) H. G. EDWARDES.

No. 215.

Colonial Office to Foreign Office.—(Received August 29.)

DOWNING STREET, *August 29, 1889.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, with a Report of the Committee of Privy Council of the Dominion, with telegrams from Mr. Baker and the Collector of Customs at Victoria, respecting the seizure of the "Black Diamond" and the "Triumph" by the United States Revenue-cutter "Richard Rush."

I am to request to be informed what answer Lord Salisbury would propose should be returned to this despatch.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure 1 in No. 215.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, *August 9, 1889.*

MY LORD: I have the honour to transmit to your Lordship a copy of an approved Report of a Committee of the Privy Council, submitting telegrams dated the 30th ultimo, from E. C. Baker, Esq., M. P., and the Collector of Customs at Victoria, British Columbia, with reference to the seizure in Behring's Sea, 70 miles from land, of the British sealing-schooner "Black Diamond," with her cargo of sealskins, and to the searching in these waters, in the same locality, of the British schooner "Triumph," by the United States Revenue-cutter "Richard Rush," and requesting that the attention of Her Majesty's Government be invited thereto, with the earnest hope that
304 an early assurance will be given that British subjects peacefully pursuing their lawful occupations on the high seas will be protected.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 215.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, August 2, 1889.

On a Report, dated the 31st July, 1889, from the Minister of Marine and Fisheries, submitting telegrams dated the 30th ultimo, from E. C. Baker, Esq., M. P., and the Collector of Customs at Victoria, British Columbia, with reference to the seizure in the Behring's Sea, 70 miles from land, of the British sealing-schooner "Black Diamond,"

with her cargo of sealskins, and to the searching in these waters, in the same locality, of the British schooner "Triumph," by the United States Revenue-cutter "Richard Rush," the Master of the "Triumph" being informed that immunity from the seizure of his vessel was due solely to the fact that she had no sealskins on board.

The Minister represents that four years have elapsed since the seizure of British sealing-vessels was commenced by the United States authorities in the Behring's Sea, and the strong representations of Her Majesty's Ministers to the United States have only resulted in a continuance of the policy, and a declaration that such policy will be systematically pursued.

The Committee advise that copies of the annexed telegrams be transmitted to the Right Honourable the Secretary of State for the Colonies, with the request that the attention of Her Majesty's Government be invited thereto, and with the earnest hope that an early assurance will be given that British subjects peacefully pursuing their lawful occupations on the high seas will be protected.

All of which is respectfully submitted for approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 215.]

Mr. Crow Baker to the Minister of Marine and Fisheries, Ottawa.

(See Inclosure 2 in No. 211.)

[Inclosure 4 in No. 215.—Telegraphic.]

Mr. Hambly to the Hon. M. Bowell.

Schooner "Triumph" searched by officer of United States Revenue-cutter the 11th July in Behring's Sea. No skins. Vessel released. Officer told Master that same day "Black Diamond," having skins, was seized. Both vessels 70 miles from land. Officer said orders were to seize every vessel, British or American, with skins on board.

No. 216.

Colonial Office to Foreign Office.—(Received September 2.)

DOWNING STREET, *September 2, 1889.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a telegram which has been sent to the Governor-General of Canada respecting the Behring's Sea difficulties.

I am, &c.

(Signed) JOHN BRAMSTON.

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305 [Inclosure in No. 216.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *August 31, 1889.*

Seizures of British vessels in Behring's Sea. Her Majesty's Chargé d'Affaires at Washington reports United States Government have no information beyond what we have.

Mr. Blaine asked that the substance of Lord Salisbury's instructions might be embodied in a note, and promised early reply. He said it was necessary first to consult President. He apprehended no serious divergence between two Governments, and expressed his own very sincere desire for a joint settlement of Fisheries and Behring's Sea questions, and dwelt on very friendly feelings of President Harrison's Administration.

further telegram substance of Mr. Blaine's letter is given, saying that the amours, probably authentic, had reached his Government, but have not been ied officially. The letter expresses the earnest desire of the President for an ment removing all possible ground for misunderstanding concerning the es in Behring's Sea, and satisfaction at learning that Sir J. Pauncefote will i question on his return.
ed States Government will prepare for discussion, and President thinks points e are capable of prompt adjustment on basis honourable to both Governments. ird telegram states that Mr. Blaine had promised a very early reply whether :tions would be sent to Alaska in order to prevent possible recurrence of such ats.

No. 217.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *September 2, 1889.*

R: I have laid before the Marquis of Salisbury your letter of the ultimo, forwarding a despatch from the Governor-General of ada and a Report of the Committee of the Canadian Privy Council the action of the United States Revenue-cutter "Richard Rush" in ing the British sealing-vessel "Black Diamond," and searching ther vessel, the "Triumph," in the waters of Behring's Sea.

In reply to your inquiry as to the answer to be returned to this spatch, I am directed by his Lordship to suggest that Lord Stanley ould be informed that Her Majesty's Government are in communica- on with that of the United States with the object of procuring instruc- ons which will prevent any further seizures.

I am, at the same time, to request that you will point out to Secretary ord Knutsford that as yet no authentic and detailed information has eached this Department as to the circumstances attending the seizure and searching of these or other British vessels by the United States authorities during the present fishing season.

I am, &c.

(Signed) T. H. SANDERSON.

No. 218.

Colonial Office to Foreign Office.—(Received September 3.)

DOWNING STREET, *September 3, 1889.*

SIR: With reference to previous correspondence, and particularly to the letter from this Department of the 29th ultimo, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a further despatch from the Governor-General of Canada, containing with other inclosures a cutting from a local news- paper respecting the searching of the "Triumph," and a telegram from the Collector of Customs at Victoria in connection with the arrival of the "Black Diamond" at that port.

I am to request that the inclosures to Lord Stanley's despatch may be returned to this Department when done with.

I am, &c.

(Signed) EDWARD WINGFIELD.

306 [Inclosure 1 in No. 218.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, *August 15, 1889.*

MY LORD: With reference to my despatch of the 9th instant, I have the honour to transmit to your Lordship a copy of an approved Minute of the Privy Council, submitting a copy of a despatch from the Lieutenant-Governor of British Columbia, together with a cutting from the "Colonist" containing Captain McLean's statement of the circumstances under which his vessel, the "Triumph," was searched, and also a copy of a telegram from the Collector of Customs at Victoria, giving information as to the arrival of the seized schooner "Black Diamond" at that port.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 218.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 11th August, 1889.

The Committee of Council have had under consideration a despatch, dated the 30th July, 1889, from the Lieutenant-Governor of British Columbia, respecting the seizure of the British schooner "Black Diamond" by the United States cutter "Richard Rush," 70 miles from land, and transmitting a cutting from the "Colonist," a British Columbia newspaper, containing Captain McLean's statement of the circumstances under which his vessel, the "Triumph," was searched, and also a telegram from the Collector of Customs at Victoria, giving information as to the arrival of the seized schooner "Black Diamond" at Victoria.

The Committee advise that copies of these communications be transmitted to the Right Honourable the Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 218.]

Lieutenant-Governor Nelson to the Secretary of State, Ottawa.

GOVERNMENT HOUSE, *Victoria, July 30, 1889.*

SIR: I have the honour to inform you that Captain McLean, of the sealing-schooner "Triumph," just arrived from Behring's Sea, has brought news of the seizure of the British schooner "Black Diamond" by the United States cruizer "Rush" for sealing in that sea. I inclose cutting taken from the "Colonist" newspaper, giving an account of Captain McLean's statement.

I have, &c.

(Signed) HUGH NELSON.

[Inclosure 4 in No. 218.]

Extract from the "Colonist."

THE SEALING-SCHOONER "BLACK DIAMOND" SEIZED BY THE REVENUE-CUTTER "RUSH," AND DISPATCHED TO SITKA.—Sunday evening considerable excitement was caused in the city, more especially in commercial circles, when it became known that the sealing-schooner "Triumph" had arrived in harbour, bringing with her the news of the capture of the schooner "Black Diamond," and her own narrow escape from the same fate. The particulars of the case are as follows:

At about 6 o'clock on the evening of the 11th July a steamer was sighted from the deck of the "Triumph," and Captain McLean at once concluded that the vessel was a United States cutter, either the "Bear" or the "Rush." The exact locality
307 of his schooner at the time Captain McLean did not know, but, as nearly as he could judge, he was 100 miles to the westward of St. George's Islands, in Behring's Sea. The steamer followed in his wake for two hours, and at dusk came alongside and ordered him to heave to. He at [?] obeyed the order, and a boat's crew, with *the Chief Officer* of the "Rush" (Mr. Tuttle), boarded her. The captain stood at the *gangway, and* asked the officer his reasons for boarding the schooner. The answer

duction of written orders authorizing "the capture of any vessel illegally Behring's Sea."
naked to be allowed to search the ship, and on permission being accorded ent over half-an-hour with his men in overhauling the vessel. No find his search, however, the whole of the skins aboard having been dexterously time to avoid detection. When the search was concluded the officer turned McLean, and, after expressing his pleasure at not being under necessity to essel, informed him that a few hours before, the "Rush" had come up with ed the schooner "Black Diamond." He had found aboard her 104 sealskins, scovering these had put the second officer in charge, and dispatched the sealer to Sitka. He also stated that it was the intention of his Commander e every vessel illegally sealing in Behring's Sea, and send them to American harge of American officers.
n ordered his crew to return to the "Rush," and, as soon as they were aboard ner, headed full speed away to the west.
time of boarding, the "Triumph" had aboard her about 300 skins.
Black Diamond" is owned by Messrs. Guttman and Frank, of this city.
lay morning, when the facts of the case became generally known, Captain H. Saunders, and Mr. W. Munsie formed themselves into a deputation, and to leave for Esquimalt immediately, and interview the captain of the sion" on the subject. Commander Sinclair received the deputation very sly, and, on learning the object of their visit, ordered his secretary to take the statements made. The facts of the case were then put before him, and ors protested against the menace to the sealing industry by the acts of the States Revenue-cutter. It was represented that out of fifty-five sealing- rs that have entered Behring's Sea this season twenty-four belong to Victoria, t if the acts of the American Government were not speedily put a stop to, ing industry of Victoria would be ruined.
e members of the deputation signed the statement, and Commander Sinclair m that, although he could do nothing himself, he would lay everything before niral as soon as he joined the fleet. He further advised them to collect all vailable information on the subject and dispatch it to Admiral Heneage by am-ship "Sardonyx," which sails on Thursday next for Port Simpson.
rrival in the city the deputation was joined by Mr. Richard Hall and Captain Senator Macdonald, of Toronto, was then interviewed at the Driard, and at hrew himself into the subject, going with the deputation to Mr. E. Crow M. P., and the Honourable Mr. Robson, Provincial Secretary. A telegram ning the whole of the facts was dispatched to the Honourable the Minister of e and Fisheries at Ottawa by Senator Macdonald, and it is expected that an r will be received in time for it to be dispatched to the Admiral by the "Sar- ."
Honourable Mr. Robson also dispatched a separate telegram to the Minister rine on the same subject.

[Inclosure 5 in No. 218.]

Telegram from Victoria, B. C., to Mr. Bowell, Minister of Customs, Ottawa.

e man from Revenue-cutter placed on board "Black Diamond," with orders to her to Sitka. Vessel's master and crew remained on board, and brought her ght to Victoria. Vessel's papers, clearance, coasting licence, and certificate of ister, also salted skins, taken from her by officer of Revenue-cutter.

No. 219.

Admiralty to Foreign Office.—(Received September 6.)

ADMIRALTY, *September 4, 1889.*

IR: I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Secretary of State, copy of a letter from the Captain of Her Majesty's ship "Cham pion," dated the 30th July last, with copy of its inclosure, respect- the capture of an English sealing-schooner by a United States izer in the Behring's Sea.

I am, &c. *(Signed)* R. D. AWDRY.

[Inclosure 1 in No. 219.]

Captain St. Clair to Rear-Admiral Heneage.

"CHAMPION," AT ESQUIMALT, *July 30, 1889.*

SIR: I have the honour to report, for your information, that during the forenoon of the 29th instant a deputation of owners of sealing-schooners came on board of this ship at Esquimalt to report that an English schooner had been captured in the Behring's Sea by a United States cruizer.

A copy of their statement is attached.

I informed them that I would submit their statement to you on my arrival at Port Simpson.

I have, &c.

(Signed) A. F. ST. CLAIR.

[Inclosure 2 in No. 219.]

Statement made by Owners of Sealing-Schooners at Victoria, B. C.

The English schooner "Triumph," Captain McLean, arrived at Victoria last evening (28th July) from Behring's Seas, and reported that she was boarded in these seas on the 11th instant at 8 P. M. by the American steamer "Rush," Lieutenant-Commander Shepherd, at longitude 170° west, and 70 miles off the shore.

The Commander of the "Rush" searched the vessel and found no seals on board. He ordered her (the "Triumph") out of the seas, and said if she was found there again She would be taken prisoner to Ounalaska.

Lieutenant Shepherd, of the "Rush," also had informed Captain McLean that he had that day seized the English schooner "Black Diamond," and his instructions were to seize all vessels found in these seas.

A prize crew had been put on board the "Black Diamond," and the vessel sent to Ounalaska.

(Signed) JOHN GRAHAM,
Owner of Schooner "Sapphire."
WILLM. MIMSIL,
Owner of Schooners "Viva," "Pathfinder," and "Mary Taylor."
H. SAUNDERS,
Owner of Schooner "Ourel."

"CHAMPION," AT ESQUIMALT, *July 29, 1889.*

No. 220.

The Marquis of Salisbury to Mr. Edwardes.

FOREIGN OFFICE, *September 9, 1889.*

SIR: I have to express to you my approval of your proceedings, as reported in your despatch of the 26th August last, with reference to the representations you were instructed to make to the United States Secretary of State in regard to the seizures of British vessels in the waters of Behring's Sea.

I am, &c.

(Signed) SALISBURY.

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No. 221.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *September 9, 1889.*

SIR: With reference to your letter of the 3rd instant, I am directed by the Marquis of Salisbury to request that you will move the Secretary of State for the Colonies to cause a telegram to be sent to the Governor-General of Canada, requesting his Excellency to furnish Her Majesty's Government with immediate information if any further stoppage of vessels in Behring's Sea takes place.

I am, &c.

(Signed) T. H. SANDERSON.

No. 222.

Colonial Office to Foreign Office.—(Received September 10.)

DOWNING STREET, *September 10, 1889.*

SIR: With reference to previous correspondence respecting the seizure of Canadian sealers in Behring's Sea, I am directed by Lord Knutsford to transmit to you, for communication to the Marquis of Salisbury, a copy of a despatch from the Governor-General of the Dominion, with its inclosures, on the subject.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 222.]

Lord Stanley of Preston to Lord Knutsford.

CITADEL, QUEBEC, *August 26, 1889.*

MY LORD: With reference to previous correspondence respecting the seizure of the "Black Diamond" and the detention of the "Triumph" in Behring's Sea, I have the honour to forward herewith a copy of an approved Minute of the Privy Council, submitting copies of the instructions given to the special officer placed on board the "Black Diamond" by the Captain of the United States Revenue-cutter "Rush," and of a letter from the Collector of Customs at Victoria, together with the affidavits of the masters of the two vessels.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 222.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 22nd August, 1889.

On a Report dated the 13th August, 1889, from the Minister of Marine and Fisheries, submitting, in reference to the seizure in the Behring's Sea of the schooner "Black Diamond" and the boarding of the schooner "Triumph," the original instructions given to the special officer placed by the Captain of the United States Revenue-cutter "Rush" on board the "Black Diamond" at the time of the latter's seizure, and also a letter from the Honourable W. Hamley, Collector of Customs at Victoria, British Columbia, together with the following affidavits:

1. Affidavit of Owen Thomas, of Victoria, British Columbia, master of the British sealing schooner "Black Diamond."
2. Affidavit of Daniel McLean, of Victoria, British Columbia, master of the British sealing schooner "Triumph."

The Minister recommends that copies of the inclosures herewith be immediately forwarded, for the information of Her Majesty's Government.

The Committee concurring advise that your Excellency be moved to forward
310 this Minute, together with copies of the inclosures, to the Right Honourable the Secretary of State for the Colonies

All of which is respectfully submitted.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 222.]

Captain Shepard to Mr. Hankanson.

UNITED STATES REVENUE-STEAMER "RUSH,"
Behring's Sea, Lat. 56° 22′ N., Long. 170° 25′ W., July 11, 1889.

SIR: You are hereby appointed a special officer, and directed to proceed on board the schooner "Black Diamond," of Victoria, British Columbia, this day seized for violation of Law, section 1946 Revised Statutes of the United States, and assume charge of said vessel, her officers and crew, twenty-five in number, all told, excepting the navigation of the vessel, which is reserved to Captain Owen Thomas, and which you will not interfere with unless you become convinced that he is proceeding to some other than your port of destination, in which event you are authorized to assume full charge of the vessel. Everything being in readiness, you will direct Captain Owen Thomas to make the best of his way to Sitka, Alaska, and upon arrival at that port you will report in person to the United States District Attorney for the district of Alaska, and deliver to him the letter so addressed, the schooner "Black Diamond," of Victoria, British Columbia, her outfit, and the persons of Captain Owen Thomas and Mate Alexander Galb, and set her crew at liberty. After being relieved of the property and persons intrusted to your care, you will await at Sitka the arrival of the "Rush."

I have, &c.

(Signed) L. G. SHEPARD.

[Inclosure 4 in No. 222.]

Mr. Hamley to the Customs, Quebec.

CUSTOM-HOUSE, *Victoria, August 5, 1889.*

SIR: I forward herewith, in original, the orders given by Captain Shepard, of the United States Revenue-cutter "Rush," to J. Hankanson, special officer, to proceed on board the British schooner "Black Diamond," seized in Behring's Sea, and to take her to Sitka.

The master of the schooner reports to me that the Indians employed as hunters in the schooner would, he believes, have murdered Hankanson if an attempt had been made to take her to Sitka. The master got out of the sea and sailed at once for Victoria, without any opposition on the part of Hankanson, and I think it is very probable that the orders given him privately by the Captain of the "Rush" were not to interfere in any way with the destination of the vessel. He arrived here on Saturday evening, the 3rd August; the object of the Revenue-cutter was no doubt attained in taking her skins, rifle, and Indian spears away, and sending the vessel out of Behring's Sea. Her certificate of registry was also taken away.

Shall I give her a fresh certificate?

I have, &c.

(Signed) W. HAMLEY.

[Inclosure 5 in No. 222.]

In the Matter of the Seizure of the Sealing-schooner "Black Diamond" by the United States Revenue-cutter "Richard Rush," on the 11th day of July, 1889.

Deposition of Owen Thomas.

I, Owen Thomas, of the city of Victoria, British Columbia, master mariner, do solemnly and sincerely declare that—

1. I am a master mariner, and was at the time of the occurrences hereinafter
311 mentioned and still am the master of the schooner "Black Diamond," of the port of Victoria, British Columbia.

2. On the 11th day of July, A. D. 1889, whilst I was on board and in command of the said schooner, and she being then on a sealing expedition, and being in latitude 56° 22′ north and longitude 170° 25′ west, and at a distance of about 35 miles from land, the United States Revenue-cutter "Richard Rush" overhauled the said schooner, and, having hailed her by shouting, a command which I could not distinctly hear, steamed across the bows of the said schooner, compelling her to come to. A boat was then lowered from the said cutter, and Lieutenant Tuttle and five other men from the United States vessel came aboard the said schooner. I asked the Lieutenant what he wanted, and on his stating he wished to see the ship's papers, I took him down to my cabin and showed them to him. He then commanded me to hand the papers over to him. This I refused to do, and locked them up in my locker.

At this time there were 131 sealskins aboard the schooner, 76 of which had been salted, and 55 of which were unsalted, and Lieutenant Tuttle ordered his men to bring up the skins, and to take the salted ones on board the "Richard Rush." The cutter's men accordingly transferred all of the salted skins from my schooner to the "Richard Rush," and also took aboard the cutter two sacks of salt and a rifle belonging to the schooner. Lieutenant Tuttle then again demanded me to give up the ship's papers, and told me that if I would not give them up he would take them by force. As I still declined to part with them he signaled to the cutter, and a boat came off with the Master-at-Arms, who came on board the schooner. Lieutenant Tuttle asked me for the keys of the locker so that he might get the papers out, and upon my refusing to give them to him he ordered the Master-at-Arms to force open the locker. The Master-at-Arms then unscrewed the hinges of the locker, took out the ship's papers, and handed them to Lieutenant Tuttle. Lieutenant Tuttle then returned to the "Richard Rush," and came back to the schooner again, bringing on board with him one whose name I have since heard to be John Hawkinson, and who I believe to be a Quartermaster of the "Richard Rush." Lieutenant Tuttle then told me to take the schooner to Sitka. I told him that I should not go unless he put a crew on board to take the schooner there. He gave Hawkinson directions to take the ship to Sitka, and gave him letters to give to the United States authorities on arrival.

Lieutenant Tuttle, before leaving my schooner, ordered twenty Indian spears which were aboard for sealing purposes to be taken on to the "Richard Rush." I asked the Lieutenant to give me a receipt for the papers, skins, &c., he had taken. This he refused to do, and he then returned to the "Richard Rush," taking the said spears with him, and leaving the man Hawkinson in charge of the schooner. Shortly afterwards the cutter steamed away, without returning the ship's papers, sealskins, and other goods before-mentioned.

After the departure of the United States vessel, I directed my course to Ounalaska, hoping to meet with an English man-of-war. We arrived there on the 15th day of July. My crew at this time consisted of a mate, Alexander Gault, two white seamen, deck hands, and a white cook, and twenty Indians. The Indians, thinking we were going to Sitka, became mutinous, and told me the best thing I could do to avoid trouble was to take the schooner home. They also warned the other white men on board that if they thought I meant to take the schooner to Sitka, they would throw us all overboard. There being no man-of-war at Ounalaska I left there and directed my course to Victoria, and arrived at that port at about 7 P. M. on Saturday, the 3rd August last, having on board the said John Hawkinson, who, during the cruize to Victoria, had not tried to give me any directions, or made any suggestions as to the course to be taken by the schooner. On arrival at Victoria Hawkinson was put ashore by one of my boats.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Oaths Ordinance, 1869.

Declared at the city of Victoria, British Columbia, the 7th day of August, 1889, before me,

(Signed) OWEN THOMAS.

(Signed) ERNEST V. BODWELL,
A Notary Public for the Province of British Columbia.

312 [Inclosure 6 in No. 222.]

Deposition of Daniel McLean.

I, Daniel McLean, of the city of Victoria, in the province of British Columbia, Dominion of Canada, being duly sworn, depose as follows:

That I am master and part-owner of the British schooner "Triumph," registered at the port of Victoria, British Columbia; that, in conformity to laws of the Dominion of Canada, I regularly cleared the said schooner "Triumph" for a voyage to the North Pacific Ocean and Behring's Sea, and that, in pursuance of my legitimate business, did enter the said Behring's Sea on the 4th day of July, 1889, and did in a peaceful manner proceed on my voyage, and being in latitude 56° 05′ north, longitude 171° 23′ west on the 11th day of July, 1889. At the hour of 8.30 A. M. was hailed by Commander of United States Revenue-cutter "Richard Rush," the said Revenue-cutter being a vessel belonging to the Government of the United States and regularly commissioned by the same; a boat having been lowered by officer and crew, I was boarded by the same, the officer in charge of the boat being one Lieutenant Tuttle, who demanded the official papers of my vessel, and, after reading the same, proceeded to search my vessel for seals, and finding no evidence of the same informed me that orders had been issued by the Secretary of the United States, under the Proclamation of the President, instructing the Commanding Officer of the said Revenue-cutter "Rush" to seize all vessels found sealing in Behring's Sea; he also told me that should he again board me and find sealskins on board, that he would seize and confiscate the vessel and catch; he furthermore informed me that he had already seized the British schooner "Black Diamond" of Victoria, British Columbia, and that she had been sent to Sitka, and that, therefore, by reason of his threats and menaces, I was caused to forego my legitimate and peaceful voyage on the high seas and return to the port of my departure, causing serious pecuniary loss to myself, crew, and owners, for which a claim will be formulated and forwarded in due course.

And I make this solemn affidavit, conscientiously believing the same to be true, and by virtue of the Oaths Ordinance, 1869.

(Signed) DANIEL MCLEAN,
Master of Schooner "Triumph."

Sworn before me this 8th August, 1889, at Victoria, British Columbia.

(Signed) GEO. MORISON, J. P.,
A Justice of the Peace for the Province of British Columbia.

No. 223.

Colonial Office to Foreign Office.—(Received September 12.)

DOWNING STREET, *September 10, 1889.*

SIR: In reply to your letter of the 9th instant, I am directed by Lord Knutsford to acquaint you, for the information of the Marquis of Salisbury, that the Governor-General of Canada has to-day been requested to send immediate information if any further stoppage of vessels takes place in Behring's Sea.

I am, &c. (Signed) JOHN BRAMSTON.

No. 224.

Colonial Office to Foreign Office.—(Received September 14.)

DOWNING STREET, *September 13, 1889.*

SIR: I am directed by the Secretary of State for the Colonies to transmit to you, for communication to the Marquis of Salisbury, with reference to previous correspondence, a copy of a telegram from the Governor-General of Canada, containing information in respect of the recent seizures in Behring's Sea, and stating that affidavits were being forwarded.

I am, &c. (Signed) ROBERT G. W. HERBERT.

m. [Inclosure in No. 224.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

(Received September 29, 1889.)

Seizures of British vessels in Behring's Sea.
"Black Diamond" seized 11th July; "Minnie," 15th July; "Juanita," 31st July; "Pathfinder," 27th August; "Triumph" warned off, being threatened with seizure, 11th July. Official information recently received at Ottawa respecting "Minnie," "Juanita," "Pathfinder." Affidavits being forwarded. Seizure of "Lily" reported; affidavit when received at Ottawa will be forwarded. Seizing officers removed skins, ammunition, arms, and ship's papers.

No. 225.

Colonial Office to Foreign Office.—(Received September 14.)

[Extract.]

DOWNING STREET, *September 13, 1889.*

With reference to your letter of the 2nd instant, and to previous correspondence respecting the seizures of Canadian sealers in Behring's Sea, I am directed by Lord Knutsford to transmit to you, for communication to the Marquis of Salisbury, a copy of a telegram which has been sent to the Governor-General of the Dominion on the subject.

[Inclosure in No. 225.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *September 6, 1889.*

Her Majesty's Government communicating with United States Government with a view to preventing further seizures in Behring's Sea.
No authentic and detailed information received as to seizures during the present fishing season.
Appeal in case of 1886 seizures might be expedited by motion on meeting of Supreme Court October, but case could not be heard till spring.

No. 226.

Mr. Edwardes to the Marquis of Salisbury.—(Received by telegraph, September 20.)

[Extract.]

WASHINGTON, *September 17, 1889.*

On the 11th instant I had the honour to receive your Lordship's telegram informing me that it would be better that I should write privately to Mr. Blaine, saying that Her Majesty's Government were earnestly expecting an answer to their request that the United States Government would send to Alaska such instructions as would put a stop to the seizures of British vessels, the reports of which seizures were causing much excitement both in England and Canada.

I now have the honour to inclose herewith a copy of the private letter which, in accordance with the terms of your Lordship's above telegrams, I addressed to Mr. Blaine on the 12th instant.

[Inclosure in No. 226.—Personal.]

Mr. Edwardes to Mr. Blaine.

WASHINGTON, *September 12, 1889.*

MY DEAR MR. BLAINE: I should be very much obliged if you would kindly let me know when I may expect an answer to the request of Her Majesty's Government, which I had the honour of communicating to you in my note of the 24th August, that instructions may be sent to Alaska to prevent the possibility of the seizure of British ships in Behring's Sea. Her Majesty's Government are earnestly awaiting the
314 reply of the United States Government on this subject, as the recent reports of seizures having taken place are causing much excitement both in England and in Canada.

I have, &c.

(Signed) H. G. EDWARDES.

No. 227.

Mr. Edwardes to the Marquis of Salisbury.—(Received September 30.)

WASHINGTON, *September 19, 1889.*

MY LORD: With reference to my despatch of the 17th instant, I have the honour to inclose herewith to your Lordship a copy of a note which I have received from the Secretary of State in reply to my personal note of the 12th instant, in which I inquired of him when I might expect an answer to the request of Her Majesty's Government that instructions may be sent to Alaska to prevent the possibility of the seizure of British ships in Behring's Sea.

Mr. Blaine states that he had supposed that his note of the 24th August, copy of which was inclosed in my despatch of the 26th August, would satisfy Her Majesty's Government that the President was earnestly desirous of coming to a friendly agreement on all matters at issue between the two Governments in relation to the Behring's Sea, and that he had further supposed that my mention to him that Sir Julian Pauncefote would be officially instructed to proceed, on his return to Washington, to a full discussion of the question removed all necessity of a preliminary correspondence touching its merits.

Mr. Blaine then goes on to say that, with reference more particularly to the question to which I had informed him Her Majesty's Government were expecting a reply, a categorical response would have been and still is impracticable, unjust to the United States Government, and misleading to Her Majesty's Government, and that it was therefore the judgment of the President that the whole question could more wisely be remanded to the formal discussion so near at hand, which Her Majesty's Government have proposed, and to which the United States Government have cordially assented.

The Secretary of State concludes by stating that he considers it proper to add that any instruction sent to Behring's Sea at the time of my original request, namely, the 24th August, would have failed to reach those waters before the proposed departure of the vessels of the United States.

I have, &c.

(Signed) H. G. EDWARDES.

[Inclosure in No. 227.]

Mr. Blaine to Mr. Edwardes.

BAR HARBOUR, MAINE, *September 14, 1889.*

SIR: I have the honour to acknowledge the receipt of your personal note of the 12th instant, written at Washington, in which you desire to know when you may expect an answer to the request of Her Majesty's Government "that instructions may be sent to Alaska to prevent the possibility of the seizure of British ships in Behring's Sea."

I had supposed that my note of the 24th August would satisfy Her Majesty's Government of the President's earnest desire to come to a friendly agreement touching all matters at issue between the two Governments in relation to Behring's Sea, and I had further supposed that your mention of the official instruction to Sir J. Pauncefote to proceed, immediately after his arrival in October, to a full discussion of the question removed all necessity of a preliminary correspondence touching its merits.

Referring more particularly to the question to which you repeat the desire of your Government for an answer, I have the honour to inform you that a categorical response would have been and still is impracticable, unjust to this Government, and misleading to the Government of Her Majesty. It was therefore the judgment of the President that the whole subject could more wisely be remanded to the formal discussion so near at hand, which Her Majesty's Government has proposed, and to which the Government of the United States has cordially assented.

It is proper, however, to add that any instruction sent to Behring's Sea at
313 the time of your original request, upon the 24th August, would have failed to reach those waters before the proposed departure of the vessels of the United States.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 228.

The Marquis of Salisbury to Mr. Edwardes.

FOREIGN OFFICE, *October 2, 1889.*

SIR: In my despatch of the 17th August I furnished you with copies* of a correspondence which had passed between this Department and the Colonial Office, on the subject of the seizure of the Canadian vessels "Black Diamond" and "Triumph" in the Behring's Sea by the United States Revenue-cutter "Rush."

I have now received, and transmit herewith, a copy of a despatch from the Governor-General of Canada to the Secretary of State for the Colonies,† which incloses copies of the instructions given to the special officer placed on board the "Black Diamond" by the Officer commanding the "Rush" and of a letter from the Collector of Customs at Victoria, together with the sworn affidavits of the masters of the two Canadian vessels.

It is apparent from these affidavits that the vessels were seized at a distance from land far in excess of the limit of maritime jurisdiction which any nation can claim by international law.

The cases are similar in this respect to those of the ships "Caroline," "Onward," and "Thornton," which were seized by a vessel of the United States outside territorial waters in the summer of 1887. In a despatch to Sir L. West dated the 10th September, 1887, which was communicated to Mr. Bayard, I drew the attention of the Government of the United States to the illegality of these proceedings, and expressed a hope that due compensation would be awarded to the subjects of Her Majesty who had suffered from them. I have not since

* Nos. 202, 203, and 204. † No. 222.

that time received from the Government of the United States any intimation of their intentions in this respect or any explanation of the grounds upon which this interference with the British sealers had been authorized. Mr. Bayard did indeed communicate to us unofficially an assurance that no further seizures of this character should take place pending the discussion of the questions involved between the two Governments. Her Majesty's Government much regret to find that this understanding has not been carried forward into the present year; and that instructions have been issued to cruizers of the United States to seize British vessels fishing for seals in Behring's Sea outside the limit of territorial waters. The grounds upon which these violent measures have been taken have not been communicated to Her Majesty's Government, and remain still unexplained.

But, in view of the unexpected renewal of the seizures of which Her Majesty's Government have previously complained, it is my duty to protest against them, and to state that, in the opinion of Her Majesty's Government, they are wholly unjustified by international law.

I am, &c.

(Signed) SALISBURY.

No. 229.

The Marquis of Salisbury to Mr. Edwardes.

FOREIGN OFFICE, *October 2, 1889.*

SIR: At the time when the seizures of British ships hunting seals in Behring's Sea during the years 1886 and 1887 were the subjects of discussion, the Minister of the United States made certain overtures to Her Majesty's Government with respect to the institution of a close time for the seal fishery, for the purpose of preventing the extirpation of the species in that part of the world. Without in any way admitting that considerations of this order could justify the seizure of vessels which were transgressing no rule of international law, Her Majesty's Government were very ready to agree that the subject was one deserving of the gravest attention on the part of all the Governments interested in those waters.

The Russian Government was disposed to join in the proposed negotiations, but they were suspended for a time in consequence of
316 objections raised by the Dominion of Canada, and of doubts thrown on the physical data on which any restrictive legislation must have been based.

Her Majesty's Government are fully sensible of the importance of this question, and of the great value which will attach to an international agreement in respect to it; and Her Majesty's Representative will be furnished with the requisite instructions in case the Secretary of State should be willing to enter upon the discussion.

You will read this despatch and my previous despatch of the same date to the Secretary of State, and if he should desire it you are authorized to give him copies of them.

I am, &c.

(Signed) SALISBURY.

No. 230.

The Marquis of Salisbury to Mr. Edwardes.

FOREIGN OFFICE, *October 3, 1889.*

SIR: I have received your despatch of the 17th ultimo, and I have to inform you that I approve the terms of your letter to Mr. Blaine, inquiring when a reply might be expected to the request of Her Majesty's Government that instructions might be sent to the Alaska authorities to prevent the possibility of further seizures of British sealing-vessels in Behring's Sea.

I am, &c.

(Signed) SALISBURY.

No. 231.

Colonial Office to Foreign Office.—(Received October 5.)

DOWNING STREET, *October 5, 1889.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a letter from Mr. T. U. Clarke, inclosing a Report of a meeting at Victoria, British Columbia, held to protest against the seizure of British sealing-vessels in Behring's Sea, and adverting to the case of the "Juanita."

Lord Knutsford would be glad to be informed what answer Lord Salisbury wishes to be returned to Mr. Clarke.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 231.]

Mr. Clarke to Lord Knutsford.

HIGHGATE HOUSE, *Kilsby, Rugby, September 24, 1889.*

MY LORD: I beg to call your attention to the Report of a meeting headed "A Vigorous Protest," in inclosed Victorian (British Columbia) paper, referring to the seizure of British sealing-vessels in the high seas.

Also to the notice, marked on p. 4, referring to the robbery of 620 sealskins from the "Juanita," of which vessel my brother is captain and part-owner.

As the vessel was 80 miles from land at the time of the seizure, I, on my brother's behalf, beg respectfully to ask whether Her Majesty's Government is taking steps to prevent these illegal seizures, and also to obtain compensation for those who suffer thereby.

Your kind attention and advice will oblige.

Yours, &c.

(Signed) T. U. CLARKE.

[Inclosure 2 in No. 231.]

Extracts from the "Victoria Daily Colonist" of September 1, 1889.

A VIGOROUS PROTEST.—A few evenings ago, a meeting was held at the office of Messrs. Hall and Goepel of those interested in the sealing industry, and a Committee of five was appointed to make arrangements for a public meeting at which the voice of the people of Victoria could be heard in reference to the recent seizure of British schooners sealing in Behring's Sea.

The Committee consulted with Mayor Grant, and a mass meeting was duly advertised to be held at the City Hall last evening for the purpose referred to.

By 8 o'clock, at which hour the meeting was called for, every seat in the City Hall was taken, and dozens of deeply-interested citizens were compelled to stand. The meeting was thoroughly representative, there being present all the leading business men of Victoria, vessel owners and practical sealing men, while among the most prominent men present were to be noticed the Honourable John Robson, E. Crow Baker, M. P., Lieutenant-Colonel E. G. Prior, M. P., the Honourable Robert Beaven, M. P. P., D. W. Higgins, M. P. P., S. Duck, M. P. P., Mayor Grant, Robert Ward, President of British Columbia Board of Trade, Captain J. D. Warren, E. B. Marvin, W. Munsie, J. H. Todd, Morris Moss, C. Strouss, Captain William Grant, Captain Clarke, R. P. Rithet, and very many others.

Upon motion of the Honourable Mr. Beaven, seconded by Mr. E. Crow Baker, M. P., Mayor Grant was requested to take the chair, which he did at 8.15 P. M.

His Worship, in opening the meeting, said that the matters for the discussion of which the meeting was called had always possessed a deep interest for him. In the early part of 1887, he had the honour to move in the House for the submission to the Dominion Government of a proposition for submission to the Imperial Government in regard to the protection of British sealing interests in Behring's Sea. His motion had been carried without a dissenting voice. In 1888 he had made another proposition through the House. This proposition provided that the individual interests should not be allowed to suffer by the negligence of the Government in settling this question. He had always been very anxious to see an early settlement of the Behring's Sea question. Without further preface, he would call on Mr. Edgar Crow Baker, M. P.

Mr. Baker expressed pleasure at being called on to strike the first blow. It was a matter, he said, that concerned not only the individual, but the entire province, the dominion at large, and the whole British Empire. The matter was one deserving of consideration, not only because it touched the individual pockets and the province our home, but because it touched our hearths. The view taken by the people of British Columbia was that the grand old flag that they had learned to love from infancy had not only been insulted, but had been trampled in the dust. (Applause.) It was proposed to place everything in connection with the Behring's Sea question before the meeting truly and fairly from the very start, and to let the citizens of Victoria express their calm and conscientious opinion upon them. After referring but briefly to the various Treaties that had been made by the United States and Canada, which were not, however, entered into at any great length, as they affected more particularly the fisheries on the Atlantic seaboard, Mr. Baker pointed out how, as far back as 1820, when Russia owned Alaska, and claimed jurisdiction not only over the 3-mile limit about its coasts, but also over the sea 100 miles from land, the United States Secretary made a very vigorous protest at St. Petersburgh against the contention of the Russian Government. The British Government also strongly disputed Russia's claim, and the result was that in 1824 a Treaty was made with the United States, and in 1825 one with Great Britain, which showed how the two great nations, Great Britain and the United States, joined issue with Russia when she set up the claim to jurisdiction over Behring's Sea, and contended that it was an inland sea, and not a branch of the Northern Pacific Ocean.

On the 20th June, 1867, the United States purchased the territory of Alaska and the eastern half of Behring's Sea from Russia, paying therefor the sum of 7,200,000 dollars. At this time, the Russian Government gave them what they claimed to be a clear title to the eastern half of Behring's Sea. If that title was bad the fault is not ours. (Applause.) In 1870 the United States Congress passed a measure prohibiting the killing of seals in close proximity to the Islands of St. George and St. Paul. Shortly after this, the United States Government leased to the Alaska Commercial Company the exclusive right to kill seals for twenty years, in consideration of the sum of 55,000 dollars per annum, and certain royalties. In the early part of 1889 an Act was passed, by some claimed to have been smuggled through Congress in a rush,
proclaiming not very definitely that intrusions in Behring's Sea would not be
318 allowed; and containing a sweeping clause granting the President power to deal
with matters in connection with sealing by proclamation. Power of a very indefinite kind was also given in regard to giving instructions to the United States cutters. Aggressive measures were first taken in 1886, when Mr. T. Lubbe wrote to him (Mr. Baker) at Ottawa, informing him that the British interests were endangered. Mr. Lubbe's letter was laid before the Governor-General in Council, and the matter was promptly placed before the Imperial Government by the Dominion Cabinet. The Minister of Justice at this time gave his opinion in favour of the British Columbian sealers both to Mr. Baker and to the Imperial Government, pronouncing the action of the United States illegal, and urging upon the British Government the necessity of taking definite action at once to protect her interests in British Columbia. This was three years and a-half ago, and it was most mortifying to think that

this time should have elapsed before any decision was reached. The actual seizures commenced in 1886, when three schooners were taken possession of, along with their fittings and cargoes, and sold. The crews were cast on their own resources in Alaska, and the masters and mates were not only heavily fined, but imprisoned as well. Matters of losses were expected by every one in business; but every British Columbian felt that he was protected by the flag of England, under which many present were born, and thought it strange that he was not sheltered by the flag whose protection he had a right to expect. In 1887 nothing practical was done, and no restitution was made. In 1887 the number of seizures was doubled, six schooners being taken possession of. Coming to the present, in 1888 no seizures were made, and there was every reason to believe that the seizures would be discontinued. The Dominion Government had acted as promptly and as energetically as they possibly could. They had placed all matters promptly and rightly before the Imperial Government. It was therefore easy to see where the responsibility rested. It was impossible for the Government of Canada to protect its citizens outside of the coast limit of a marine league. When the citizens of British Columbia sailed for the northern seas they passed beyond the protection of the Federal Government, fondly hoping that wherever they went they were protected by the old flag of England.

Mr. Baker proceeded to read an amount of correspondence in reference to the appeal for protection made by Mr. Morris Moss for the British Columbia sealers on 28th March, 1888, which the Minister of Justice replied to by saying that it was to Great Britain to whom the sealers should look for protection. The Dominion Government could not send armed ships on the high seas to protect Canadians.

On the 28th July of this year the schooner "Triumph" arrived in port, and her captain brought the news of his being boarded by Lieutenant Tuttle, of the United States cutter "Richard Rush," and warned him that if he was found in Behring's Sea fishing or hunting for seals, not only would his catch of seals be forfeited, but his vessel and equipments would be confiscated, and sent with a prize crew on board to an American port. The "Triumph" also brought news of the capture of the "Black Diamond." Immediately afterwards, on the following day, he (Mr. Baker) had telegraphed again to the Minister of Marine and Fisheries, asking him if it was not possible to secure some protection for the twenty other British sealers in Behring's Sea. The steamer "Sardonyx" was going north with coal for Her Majesty's warships, then in the north, in a few days, and it was suggested that instruction could be sent to them by the Imperial Government to protect the British sealers. An answer was received that the matter would receive immediate consideration.

Having reviewed the whole history of the sealing question, Mr. Baker expressed the belief that all present could see for themselves how outrageous it was for any Government to arrogate to itself the exclusive control of a great body of water such as Behring's Sea was—700 miles long from north to south, and 900 miles wide. The desire of the sealers of Victoria was, first of all, to secure a guarantee that the seizures would be stopped. They had also a reasonable right to expect compensation for the losses already sustained, and without further delay. They, further, wished to be secured in their right to prosecute the deep-sea fishing, of which fur-sealing was a branch. He would conclude by moving the following Resolution:

"Whereas in the year 1886, by order of the Government of the United States, claiming exclusive territorial jurisdiction over the whole of Behring's Sea, eastward of a line drawn from about the middle of Behring's Strait south-westward till it crosses the 193rd meridian of longitude, three British vessels, while lawfully engaged in hunting seals, were seized in that sea at distances of from 65 to 70 miles from the nearest land; and

"Whereas after protest by the British Government against such seizures, the Government of the United States ordered the unconditional release of the said vessels; and

"Whereas by such a course the United States Government practically admitted the illegality of the seizures, and left it to be inferred that no further seizures would be made; and

319 "Whereas in 1887 it again resorted to the seizure of sealing-vessels in Behring's Sea outside the 3-mile limit, and at distances from 15 to 92 miles from the nearest land, six vessels belonging to our citizens were seized by its orders and afterwards declared forfeited to the United States; and

"Whereas in the following year, 1888, sealing-vessels belonging to our citizens again entered Behring's Sea, and took seals throughout the season without molestation by the Revenue-cutters of the Government of the United States, which had distinctly that year, by its instructions to the commanders of its cutters in Behring's Sea, ordered that no seizures of such vessels be made; and

"Whereas in the present year seizures of British sealing-vessels belonging to our citizens have *again* been made, practically in mid-ocean, in Behring's Sea, by order of the Government of the United States, the vessels robbed of sealskins on board, and arms and ammunition:

"Be it therefore resolved, that the citizens of Victoria protest against the usurpation of jurisdiction by the Government of the United States over the waters of Behring's Sea, outside the universally acknowledged 3-mile limit, and express their indignation at the repeated outrages to which the persons and property of their fellow-citizens, lawfully exercising their rights on the high seas in that part of the globe, are subjected by the orders of the Government of the United States."

Lieutenant-Colonel Prior, M. P., was called upon to second the Resolution. He was very glad, he said, to do so. He considered the conduct of the United States in the matter of seizing vessels on the high seas the most outrageous that could be thought of. There was no necessity for reviewing the question the present meeting was called to consider. It had been fully gone into already. The question was, what right had the American Government to seize our sealers?

A Voice from the audience.—No right.

Colonel Prior, continuing.—That was just the answer I was going to make. The press of both countries says they had no right. The most important papers of the United States says that the American Government will have to back down in their contention. The Russian Government, by Treaties with both the United States and Canada, gave up their claim to jurisdiction over Behring's Sea in 1825. How then can the United States claim to have purchased their jurisdiction from Russia? The great majority of Americans acknowledge that the claim advanced by their Government has nothing to rest on. Who is to blame then for not stopping these illegal seizures? The Dominion Government are not to blame. They have done all in their power. When the news of the first seizure this year reached me, I was in Kamloops. I at once telegraphed to Ottawa, and expressed the hope that the Imperial Government would give Admiral Heneage orders to retake the captured vessels. The "Caroline" had orders to do this in 1887, but for some reason was recalled. If in 1887, why not now? If the Behring's Sea question is purely one of jurisdiction, why does not the American Government allow its own sealers to fish and hunt unmolested? It is not the reason. The United States Government is trying to bolster up a giant monopoly—the Alaska Commercial Company, who by tender acquired a lease of sealing rights on the Islands of St. George and St. Paul, the breeding-grounds, for twenty years. The true reason for their action is that the American Government is afraid to lose the 315,000 dollars paid them annually by the Alaska Commercial Company. Governor Swineford, of Alaska, has condemned the Company as the greatest and worst monopoly in America, but, as he says, it has its agents always at Washington to pull the strings in its interest.

This is the last season of the Company's lease, and there is no knowing what the Government propose to do next. This year, when we first heard of the outrages in Behring's Sea, he had thought, and he was not the only one on the floor of the House of Commons who had thought the same, that it would not be poor policy to send the British fleet into Behring's Sea to protect the interests of Canadians. If France set up a claim of jurisdiction over some particular part of the ocean, and seized a German sealer therein, do you think that it would have taken three years to settle the question? Possibly, but they would be three very bad years for some one! (Cheers.) If Beaconsfield had lived, would it have taken England three years and a-half to settle this question? No! (Cheers.) He had pleasure in seconding the Resolution introduced by his colleague.

The Resolution was carried unanimously, with cheers.

The Honourable Mr. Beaven was the next speaker. He touched upon the various Treaties dealing with Behring's Sea, and referred to the manner in which British subjects were taught, that they were protected by the flag of England while and wherever they were engaged in a lawful calling. The action of the United States was contrary to international law. It had been so pronounced by the Premier
320 of England and a host of United States authorities. He thought matters should be at once referred to arbitration, as there could be no disputing the legality as well as the justice of the Canadian claim. It was true that Canada had suffered in past arbitration with the States; but still, arbitration was far preferable to any other method in the settlement of existing disputes. He proceeded to review the value of the sealing fleet and industry to the province, and explain the dimensions it might assume if the present difficulties were settled. From a dollar-and-cents point of view, it was necessary that action should be taken at once. He begged to move the following Resolution:

"Resolved,—That, as loyal British subjects, we resent the insult to our flag, and respectfully claim for our vessels and citizens on the high seas that protection by the British Government which for centuries has been the right and pride of even the meanest subject of the Empire, but which now seems to be denied us, causing great loss to the commerce of our city, and financial ruin to our fellow-citizens engaged in the sealing industry."

Mr. S. Duck, M. P. P., seconded the Resolution. There should be no more delay. Some action should at once be taken to secure British subjects in pursuit of their

lawful avocation from illegal seizure; and to let them know whether they are to receive compensation for loss already sustained while pursuing their legitimate calling on the high seas. It was hard for him to understand the apathy that had been shown by the Imperial Government in this matter. The good sense of the American people would compel their Government to take a right action in the matter, if the Imperial Government but did their duty by Canada. He was glad to second the Resolution.

Again the Resolution was put and carried, with loud applause, but no dissenting voice.

Mr. D. W. Higgins, M. P. P., was next called upon. He said that he had had placed in his hands the following Resolution, which he proceeded to read:

"Resolved,—That the time has come for a speedy and final settlement of the question of our rights in Behring's Sea, and we urge upon both the Imperial and Canadian Governments the danger of allowing this question to longer remain open."

He thought this placed the question in a practical form. The other Resolutions were longer, but still explicit. He could not, he said, help contrasting the action of England when Imperial rights were concerned with her action in this case when Colonial interest was at stake. The Delagoa Bay incident came to his memory. Certain English property was seized by Portugal, and a cable-message was at once sent to England. Three days after a fleet was ordered to Delagoa Bay to protect the British interests. It would have been in keeping with this policy if the fleet at Esquimalt had long ago been sent to Behring's Sea to protect British interests. Beaconsfield, at the close of his carreer, said: "I have kept peace with honour." Can Salisbury, if the present policy is continued, say the same at the close of his career? He may say, "I have kept peace," but at the sacrifice of the liberties of the greatest and most warlike nation in the world. He (Mr. Higgins) had paid a visit to the Southern States, and witnessed all the awful desolation apparent just after the civil war. He had at that time breathed the prayer that his country might never know the horrors of war. War was awful; but there was one thing just as terrible—a peace preserved at the loss of national honour. (Loud cheers.)

Mr. R. P. Rithet seconded Mr. Higgins' Resolution. He acknowledged that it was humiliating to be compelled to make an appeal for protection to our own nation while pursuing a lawful avocation on the high seas. The matter was of no moment whether the insult had been offered to one humble subject or to many. The principle was the same. British subjects had been illegally made prisoners of on the high seas, and had been fined and imprisoned. Like good subjects, they had waited long for action to be taken without their demanding it as their right. This action not having been made, however, it was necessary now to emphasize the representations that had been made to the Imperial Government. Like Colonel Prior, he himself felt like striking back when he was hit. He thought it would have been a good thing if one of the British men-of-war lying idly in Esquimalt Harbour had sailed north for Behring's Sea with the "Richard Rush" at the beginning of the season; kept in the "Rush's" company until she attempted to interfere with some British sealer, and then quietly sail between and say, "You must not!"

The United States now claimed that their desire was to protect the sealing industry from extermination. It was the desire of Victoria's sealers as well, and they would make no attempt to disobey any international regulations that might be made for the preservation of the seals. He was fully in accord with the Resolution, which he seconded.

Like its two predecessors, the Resolution passed unanimously.

Mr. Robert Ward, President of the British Columbia Board of Trade, drew attention to the inconsistency shown by the American Government, and carefully
321 reviewed the question of compensation before moving the following Resolution, which was seconded by Mr. J. H. Todd:

"Whereas no compensation has yet been made to the owners and crews of any of the vessels so seized and forfeited, be it therefore resolved, that we urge the Governments of Canada and Great Britain to promptly compensate the sufferers by these seizures, irrespective of the merits of the international questions involved."

Carried unanimously.

The Mayor then called upon the Hon. Mr. Robson to move the next Resolution. Mr. Robson stepped forward amidst applause. He said the hour was so late, and so much had been said, and so well said, that he did not feel justified in occupying much of the time of the meeting. He was in perfect accord with the Resolutions which had been passed, and was hopeful of good results. That some such steps had not been taken sooner was matter of surprise and regret. Too long had the glorious old flag of which we all felt justly proud been trailed in the dust on these western seas with impunity (loud applause), and true loyalty required that we should employ every legitimate means to put a stop to it. Long enough had Brother Jonathan been allowed with impunity to twist the tail of the British lion, and now it remained for the "simple fishermen of Victoria" to strike a lucifer under the lethargic old animal's nose, and arouse it to a proper sense of duty. (Applause.) One speaker

had said the Provincial Government had nothing to do with this matter, while another said it had. Perhaps in the strict official sense it had not; but he conceived that in a very important sense it had to do with whatever concerned the welfare of the country, and he felt it to be due to the Provincial Government to say that this matter had received its most earnest attention. (Applause.) It had prepared and transmitted no fewer than sixteen Orders in Council and telegrams, and he could assure the meeting that these were couched in as strong language as was consistent with State documents. (Applause.) He moved the following Resolution:

"Resolved,—That copies of the Resolutions passed at this meeting be forwarded to the Imperial and Canadian Governments, and to all Boards of Trade in Canada."

Mr. A. B. Gray seconded the Resolution, which he considered a fitting climax to the evening's work. It would show to the world the attitude the province of British Columbia had assumed after mature consideration of the question dealt with.

The Resolution was carried, again unanimously; and after a vote of thanks to the Mayor, both for calling the meeting and for his services in the chair, the meeting adjourned.

ANOTHER RETURNS.—Messrs. Hall and Goepel's little sealing schooner "Juanita," Captain Charles E. Clarke, which has been expected for several days, arrived safely yesterday afternoon, and tied up at Janion's wharf. Captain Clarke reports having sailed direct from Behring's Sea for home, but having been compelled to wait four days for a favourable wind to bring him in from the Straits.

The "Juanita" was overhauled by the United States cutter "Rush" on the 31st July while sealing in Behring's Sea. She was boarded by the captain and lieutenant of the cutter with a boat's crew, who demanded Captain Clarke's papers, and also took possession of the entire catch of the schooner, 620 skins. The guns and ammunition carried by the schooner were safely hidden away, and the officers of the "Rush" failed to discover their whereabouts.

Captain Clarke protested vigorously against the seizure, which, he informed the officers of the cutter, was outrageous, the schooner being 80 miles out in the open sea. They replied that they were sorry to be compelled to do it, but were forced to obey their orders. After instructing the captain to sail for Sitka, but without any American "prize crew," the "Rush" steamed away to capture another schooner sighted, and supposed to be the "Lily."

As soon as the cutter had dropped behind the horizon the "Juanita" resumed her hunting, but her luck had apparently gone. After several days of hard weather the "Juanita" sailed for home, passing the schooner "Kate" on the way down, but not close enough to speak her.

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322 No. 232.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *October 5, 1889.*

SIR: I have laid before the Marquis of Salisbury your letter of the 10th ultimo, inclosing a copy of a despatch from the Governor-General of Canada, dated the 26th August last, in which his Excellency transmits copies of the instructions given to the special officer placed on board the "Black Diamond" by the officer commanding the United States Revenue-cutter "Rush," and of a letter from the Collector of Customs at Victoria, together with affidavits of the masters of the "Black Diamond" and "Triumph."

I am directed by his Lordship to state in reply, for the information of Lord Knutsford, that he has addressed to Her Majesty's Chargé d'Affaires at Washington the two despatches of which copies are inclosed.* They have been submitted to, and have received the concurrence of, the Law Officers of the Crown.

I am, &c.

(Signed) T. H. SANDERSON.

* Nos. 228 and 229.

No. 233.

Mr. Edwardes to the Marquis of Salisbury.—(*Received by telegraph, October 13.*)

WASHINGTON, *October 12, 1889.*

MY LORD: I had the honour to receive on the 11th instant your Lordship's despatches of the 2nd instant on the subject of the seizures of British vessels in Behring's Sea.

With the view of carrying out your Lordship's instructions to read the above despatches to the Secretary of State, leaving with him, should he desire it, copies thereof, I called yesterday at the Department of State, but was unable to find Mr. Blaine that day.

Accordingly, I called on him the next morning by appointment, read the two despatches to him, and left with him copies of the same.

When I came to the passage in your Lordship's despatch which refers to the communication made by Mr. Bayard to Her Majesty's Government, unofficially, of an assurance that no further seizures of the character indicated should take place pending the discussion of the questions involved between the two Governments, Mr. Blaine stopped me and asked me if I could tell him in what manner this unofficial assurance had been given. I replied that I believed it to have been given in a letter from Mr. Bayard to Sir L. West, and that the letter would be found in the printed correspondence relative to the seal fisheries in Behring's Sea which was laid before Congress this year.*

When I had concluded the reading of the despatches, Mr. Blaine asked me for copies of them, which I handed to him, and before I took my leave he said that he would send me a reply later on.

I have, &c.

(Signed) H. G. EDWARDES.

No. 234.

The Marquis of Salisbury to Mr. Edwardes.—(*Substance telegraphed.*)

FOREIGN OFFICE, *October 14, 1889.*

SIR: With reference to your telegram of the 12th instant, I have to observe that the assurance to which I alluded in my despatch of the 2nd instant was conveyed to me unofficially by Mr. Phelps on the 3d April, 1888.† The conversation was recorded in a letter of the same date to the Colonial Office. There is also an allusion in a similar sense in a despatch from Sir L. West of the 6th April.

I am, &c.

(Signed) SALISBURY.

*See Message from the President of the United States of February 12, 1889, p. 12; Mr. Bayard to Sir L. West, February 3, 1887.

†See Nos. 111 and 120.

323 No. 235.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *October 15, 1889.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 5th instant, forwarding copy of a letter and inclosures from Mr. T. A. Clarke relative to the seizure of British sealing-vessels in Behring's Sea, with special mention of the case of the "Juanita," and asking what reply should, in Lord Salisbury's opinion, be returned to Mr. Clarke.

I am directed by his Lordship to suggest that the answer should be to the effect that the question is at present under discussion between the two Governments, and that Sir J. Pauncefote, who is now on his way out, will at once enter upon the subject on his arrival at Washington.

I am, &c.

(Signed) T. H. SANDERSON.

No. 236.

Colonial Office to Foreign Office.—(Received October 25.)

DOWNING STREET, *October 24, 1889.*

SIR: With reference to the letter from this Department of the 5th instant, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, inclosing an approved Minute of his Privy Council, with copy of Resolutions passed at a meeting of the citizens of Victoria, British Columbia, on the 31st August last, respecting the seizure of British sealing-vessels in Behring's Sea.

Lord Knutsford proposes to reply to the Governor-General, with the concurrence of Lord Salisbury, in terms similar to those suggested as a reply to Mr. Clarke in your letter of the 15th instant.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure 1 in No. 236.]

Deputy Governor Sir W. Ritchie to Lord Knutsford.

OTTAWA, *September 19, 1889.*

MY LORD: I have the honour to forward herewith a copy of an approved Minute of the Privy Council, submitting a copy of the Resolutions passed at a meeting of the citizens of Victoria, British Columbia, on the 31st August, respecting the seizures of British sealing-vessels in Behring's Sea.

I have, &c.

(Signed) W. J. RITCHIE.

[Inclosure 2 in No. 236.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 14th September, 1889.

On a Report, dated the 11th September, 1889, from the Minister of Marine and Fisheries, submitting a copy of the Resolutions passed at a meeting of the citizens of Victoria, British Columbia, on the 31st August, having reference to the Behring's

Sea seizures, the Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy thereof to the Right Honourable the Principal Secretary of State for the Colonies, for submission to Her Majesty's Government.

All which is respectfully submitted.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

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234 [Inclosure 3 in No. 236.]

Resolutions adopted at a Meeting of the Citizens of Victoria, British Columbia, held August 31, 1889.

(See Inclosure 2 in No. 231.)

No. 237.

Colonial Office to Foreign Office.—(Received October 25.)

DOWNING STREET, *October 24, 1889.*

SIR: I am directed by Lord Knutsford to transmit to you, for the consideration of the Marquis of Salisbury, copies of four despatches, with accompanying papers, received from the Governor-General of Canada, relating to the seizure, by the United States Revenue-cutter "Rush" in the Behring's Sea, of the British sealing-vessels named in the margin.*

I have, &c.

(Signed) R. H. MEADE.

[Inclosure 1 in No. 237.]

Deputy Governor Sir W. Ritchie to Lord Knutsford.

OTTAWA, *September 20, 1889.*

MY LORD: I have the honour to inclose herewith, for your Lordship's information, a copy of an approved Minute of the Privy Council, submitting the affidavit of the owner and master of the British schooner "Minnie," who therein set forth the circumstances under which that vessel with her cargo of sealskins was seized in Behring's Sea on the 15th July last by the United States Revenue-cutter "Rush."

I have, &c.

(Signed) W. J. RITCHIE.

[Inclosure 2 in No. 237.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 14th September, 1889.

On a Report, dated the 12th September, 1889, from the Minister of Marine and Fisheries, submitting the affidavit of the owner and master of the British schooner "Minnie," which vessel, with her cargo of 421 sealskins, was seized in the Behring's Sea on the 15th July last by the United States Revenue-cutter "Rush;" the Committee recommend that your Excellency be moved to transmit a copy of this Minute, together with copy of the annexed affidavit, to the Right Honourable the Principal Secretary of State for the Colonies, for submission to Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

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* "Minnie," "Juanita," "Pathfinder," and "Lily."

[Inclosure 3 in No. 237.]

Affidavit of Victor Jacobson.

I, Victor Jacobson, owner and master of the British schooner "Minnie," of Victoria, British Columbia, make oath and say:

I cleared my vessel from Victoria in the early part of May for a sealing voyage to Behring's Sea. My crew consisted of five white men and sixteen Indians. I entered the sea on the 27th June, and commenced sealing on the 15th July. I was hove-to under reefed mainsail and jib, when I perceived a vessel under full steam
325 bearing down upon us. This was about 3 P. M. I made sail and tried to get away, but was soon overhauled by what turned out to be the United States cutter "Rush." Some one on board shouted out, "Heave-to." I did so, and a boat filled with men came alongside. A Lieutenant came on board and asked me for my papers, which I gave him. He then asked me how many seals I had. I replied about 450. He then took my papers off to the cutter, and returned and ordered his men to take off the hatches, and bring up all the skins they could find. They took off 421 skins to the cutter. I went on board the cutter and interviewed Captain Shepherd, who told me he must obey his orders, which were to seize every schooner found sealing in the Behring's Sea, and send them to Sitka. I returned to the schooner, when the Lieutenant asked me for my guns and spears. He took a breech-loading gun and a muzzle-loader, but refused a French musket which I offered him. He then left with his men, leaving one man on board. The cutter then steamed away. The Lieutenant told me before leaving that I was 65 miles south-east by east from Aonimak Pass. After the cutter left the United States sailor told me he was in charge, but he never attempted to interfere with the working of the vessel. Some time afterwards he showed me his written instructions, which were that the vessel should proceed to Sitka, and there be handed over to United States' Marshal, and that the captain and mate should be arrested. I then concluded I would not go to Sitka, but would continue my voyage. That night we made some new spears, and next morning commenced hunting as though nothing had happened. We captured fifty seals that day and ninety on the next, kept on hunting until the 17th August, when, having five hundred seals on board, I left for the south. After passing through Aonimak Pass, I told the prize crew I should steer for Victoria. He replied, "I always thought so."

The Indians told me that if the United States sailor attempted to take the vessel to Sitka they would throw him overboard. We arrived in Victoria last evening, and to-day at noon the prize crew came ashore and reported at the American consulate.

(Signed) VICTOR JACOBSON.

Sworn before me, at Victoria, British Columbia, 2nd day of September, A. D. 1889.

(Signed) ROBERT WARD,

A Justice of the Peace for the Province of British Columbia.

[Inclosure 4 in No. 237.]

Deputy Governor Sir W. Ritchie to Lord Knutsford.

OTTAWA, *September 21, 1889.*

MY LORD: I have the honour to transmit herewith a copy of an approved Minute of the Privy Council, submitting the affidavit of the master and mate of the British schooner "Juanita," which vessel was seized on the 31st July last by the United States Revenue-cutter "Rush," together with a copy of the receipt of the captain of the "Rush" for the ship's papers, and a sealed envelope addressed to the United States District Attorney at Sitka.

Your Lordship will observe that the seizure took place about 80 miles from the nearest land.

I have, &c.

(Signed) W. J. RITCHIE.

[Inclosure 5 in No. 237.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 14th September, 1889.

On a Report dated the 12th September, 1889, from the Minister of Marine and Fisheries, submitting the affidavit of the master and mate of the British schooner "Juanita," which vessel, with her cargo of 620 sealskins, was seized in the Behring's

Sea on the 31st July last by the United States Revenue-cutter "Rush," together with the original receipt of the captain of the "Rush" for the ship's papers, and a sealed envelope addressed to the United States District Attorney at Sitka; and it will be observed that in this case the captain of the "Rush" has fixed the latitude and longitude at which the seizure took place at 55° 42′ north latitude and 170° 40′
326 west longitude, which is about 80 miles from the nearest land, and, as the captain of the "Juanita" defines it, "on the blue waters of the Great Ocean."

The Committee recommend that your Excellency be moved to transmit a copy of this Minute, together with copy of the annexed papers, to the Right Honourable the Secretary of State for the Colonies, for submission to Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 6 in No. 237.]

Affidavit of the Master and Mate of the British Schooner "Juanita."

We, the undersigned master and mate of the British schooner "Juanita," hereby affirm and declare:

That the schooner "Juanita" entered the Behring's Sea on the 2nd day of July, 1889, having on board a crew consisting of four white men and fourteen Indians, all told, with seven canoes and one boat, the said schooner being engaged on a fur-sealing voyage.

That on the 31st day of July, at about 3 A. M., the schooner being at that time in latitude 55° 30′ north, longitude 170° 25′ west, according to the master's reckoning, the United States Revenue-cutter "Richard Rush" was discovered a short distance from the vessel. After some delay she (the "Richard Rush") steamed alongside the "Juanita," and the captain requested that the schooner be hove-to, as he wished to board her. In the course of a very short time the schooner was boarded by three officers, the senior of whom inquired from the master with regard to the length of time the vessel had been in the sea, and the number of skins on board. On learning these particulars he (the officer) informed the master of the "Juanita" that he should have to seize his vessel and catch; after which he instructed his boat's crew to tranship the sealskins (620 in number) to the "Richard Rush," which work was immediately proceeded with.

The schooner's master remonstrated with the steamer's officer at the irregularity of this proceeding, pointing out the fact that the vessel was then something like 80 miles from the nearest land, and on the blue water of the Great Ocean, to which the officer replied that he was simply carrying out the orders and instructions of his superiors. He then demanded the schooner's papers and the spears of the Indian hunters, which were given up.

The papers consisted of the schooner's certificate of registration and her clearance. After all the skins had been transhipped, two letters were sent on board the schooner; one (addressed to the master) proved to be a certificate of the seizure, and the other was addressed to the District Attorney of Alaska at Sitka. With these came verbal instructions to the master to proceed with his vessel to Sitka, after which the steamer went on her way.

During the time of these operations the British ensign was flying at the schooner's peak, nor was it hauled down until after the steamer had resumed her course.

(Signed) CHAS. E. CLARKE.
JOSEPH SECORD.

Sworn before me this 2nd day of September, 1889.

(Signed) J. W. SHOTBOLT,
Justice of the Peace.

[Inclosure 7 in No. 237.]

Certificate of Seizure.

UNITED STATES REVENUE-STEAMER "RUSH,"
Behring's Sea, Lat. 55° 42′ N., Long. 170° 40′ W., July 31, 1889.

To whom it may concern:

This will certify that I have this day seized the British schooner "Juanita," of Victoria, British Columbia, C. E. Clarke, master, for violation of law, section 1956 Revised Statutes, United States, and taken possession of his ship's papers, consisting of registry and clearance.

(Signed) L. G. SHEPARD,
Captain, United States Revenue Marine.

327 [Inclosure 8 in No. 237.]

Captain Shepard, U. S. N., to the United States District Attorney.

UNITED STATES REVENUE-STEAMER "RUSH,"
Behring's Sea, Lat. 55° 29′ N., Long. 166° 15′ W., August 6, 1889.

SIR: I have the honour to inform you that I have this day in the Behring's Sea, latitude 55° 29′ north, longitude 166° 15′ west, seized the British schooner "Lily," of Victoria, British Columbia, John Reilly, master, for violation of law, section 1956 Revised Statutes.

I have taken his arms and sealskins, 333 in number, on board the "Rush," for better security, and as I have no officer to spare to place in charge, I have directed the captain to proceed with his vessel to Sitka, Alaska, and on his arrival to set his crew, three white men and twenty-five Indians, at liberty, and to report in person to you; and I have to request that you will take charge of this vessel and her officers, Captain John Reilly and mate, George McDonald, until I can appear in the United States District Court at Sitka against them.

Very respectfully,

(Signed) L. G. SHEPARD.

[Inclosure 9 in No. 237.]

Deputy Governor Sir W. Ritchie to Lord Knutsford.

OTTAWA, *September 23, 1889.*

MY LORD: I have the honour to transmit herewith a copy of an approved Minute of the Privy Council of Canada, to which is appended a copy of the sworn statement of the master of the British schooner "Pathfinder," giving particulars of the seizure of his vessel by the United States Revenue-cutter "Richard Rush," in Behring's Sea, on the 27th August last.

The Canadian Government, as your Lordship will observe, call attention to the irritating and unjustifiable nature of the seizure, and request that suitable redress be demanded from the United States Government for the wrong inflicted on loyal subjects of Her Majesty.

I have, &c.

(Signed) W. J. RITCHIE.

[Inclosure 10 in No. 237.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 14th September, 1889.

On a Report, dated the 7th September, 1889, from the Minister of Marine and Fisheries, submitting, in connection with the Behring's Sea seizures, the sworn statement of the master of the British schooner "Pathfinder," giving the particulars of the seizure of this vessel by the United States Revenue-cutter "Richard Rush," in the Behring's Sea, on the 27th August last, and the removal thereto from the "Pathfinder" of 854 sealskins, together with all the rifles, shot-guns, and ammunition on board; the Minister submits also the instructions given the special officer placed on board the "Pathfinder" by the commander of the "Richard Rush," and it will be noticed, however, these were disregarded by the master and crew, as the vessel was navigated to Victoria, British Columbia, instead of Sitka.

The Minister observes that the circumstances which characterize this seizure are no less irritating and unjustifiable than those which have preceded it.

The Committee recommend that your Excellency be moved to transmit a copy of this Minute, together with the papers herewith, to the Right Honourable the Principal Secretary of State for the Colonies, in order to bring to the notice of Her Majesty's Government the particulars of the seizure in question, with a view to seeking from the Government of the United States redress commensurate with the wrong which has in this case been inflicted upon loyal subjects of Her Majesty.

All which is respectfully submitted for your Excellency's approval,

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 11 in No. 237.]

Statement of Captain O'Leary.

VICTORIA, BRITISH COLUMBIA, *August 30, 1889.*

Captain O'Leary states that he sailed as master on board the British schooner "Pathfinder," owned by Carne and Munsie, of Victoria. We cleared at Custom-house on the 17th April for a sailing expedition to the North Pacific Ocean and on Behring's Sea. We had fair success, and shipped the early season's catch to Victoria. We entered Behring's Sea on the 1st July, and up to the 27th of that month had taken about 860 skins, the weather being rather unfavourable for sealing up to that time. On the morning of the 29th we sighted the United States cutter "Richard Rush" in about 57° 24′ north latitude, 172° 14′ west longitude. Commander Shepard ordered me to heave-to; I did so: as there was no wind, escape was impossible. First Lieutenant Tuttle came on board with a boat's crew, and asked me if I was sealing; I told him I was. He asked me how many skins I had on board; I told him I had about 854. He then returned to the Revenue-cutter, and in a short time returned and told me he was going to seize my vessel. I asked him what he was going to seize me for; he said for sealing in Behring's Sea. His men then searched my vessel, and took all the ship's papers, 854 sealskins, 12 rifles and shot-guns, also all shells, cartridges, &c., which were transferred to the cutter "Rush." He put one of his crew on board my vessel, and told me to proceed to Sitka with the "Pathfinder." The "Rush" then steamed away, and I headed the "Pathfinder" south. After we were well out of the Behring's Sea, some of my crew informed the American officer that we were bound for Victoria. He said nothing to me, nor did he offer any objection. As the month of August is our best sealing month, I consider we could easily have taken 3,000 seals in all to the end of the sealing season.

(Signed) W. O'LEARY.

Sworn before me this 31st day of August, 1889.

(Signed) J. W. SHOTBOLT,
Justice of the Peace.

[Inclosure 12 in No. 237.]

Captain Shepard, U. S. N., to Mr. Hunter.

UNITED STATES REVENUE-CUTTER "RUSH,"
Behring's Sea, Lat. 57° 24′ N., Long. 171° 55′ W., July 29, 1889.

SIR: You are hereby appointed a special officer, and are directed to proceed on board the schooner "Pathfinder," of Victoria, British Columbia, this day seized for violation of section 1956 Revised Statutes of the United States, and assume charge of the said vessel, her officers and crew, twenty white men, all told; excepting the navigation of the vessel, which is reserved to Captain O'Leary, and which you will not interfere with unless you become convinced he is proceeding to some other than your port of destination, in which event you are authorized to assume full charge of the vessel. Everything being in readiness, you will direct Captain O'Leary to make the best of his way to Sitka, Alaska, and upon arrival at that port you will report in person to the United States District Attorney for the District of Alaska, and deliver it to him, the letter so addressed, the schooner, her outfit, and the persons of Captain William O'Leary and mate, A. Davidson, and set the crew at liberty.

After being relieved of the property and persons intrusted to your care, you will await at Sitka the arrival of the "Rush."

Respectfully, &c. (Signed) L. G. SHEPARD.

[Inclosure 13 in No. 237.]

Deputy Governor Sir W. Ritchie to Lord Knutsford.

OTTAWA, *September 24, 1889.*

MY LORD: I have the honour to forward herewith a copy of an approved Minute of the Privy Council, submitting a copy of the affidavit of the master of the British sealing-schooner "Lily," which vessel was seized in Behring's Sea by the United States Revenue-cutter "Richard Rush" on the 6th ultimo, about 60 miles from the nearest land, together with a copy of the certificate of seizure signed by the captain of the "Richard Rush," and a sealed communication addressed to the United States District Attorney at Sitka.

I have, &c. (Signed) W. J. RITCHIE.

[Inclosure 14 in No. 237.]

t of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 18th September, 1889.

a Memorandum, dated the 18th September, 1889, from the Minister of Marine Fisheries, submitting the affidavit of the master of the British sealing-schooner y," which vessel was on the 6th day of August last in the Behring's Sea (latitude 9′ north, longitude 166° 15′ west), distant about 60 miles from the nearest land, her cargo of 333 sealskins, seized by the United States Revenue-cutter "Richard ," also the certificate of seizure signed by L. G. Shepard, captain of the "Richard ," and a sealed communication addressed to the United States District Attorney, ict of Alaska, Sitka, given to the master of the "Lily" for delivery on his arrival tka, whither he was ordered to proceed, which order, however, he disregarded, ailed to Victoria.

e Committee advise that your Excellency be pleased to forward copies of the sures to the Right Honourable the Principal Secretary of State for the Colonies, ıbmission to Her Majesty's Government.

which is respectfully submitted for approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

[Inclosure 15 in No. 237.]

Declaration of John Reilly.

ıe matter of the seizure of the sealing schooner "Lily" by the United States Revenue-cutter "Richard Rush," on the 6th day of August, A. D. 1889.

Iohn Reilly, of the city of Victoria, British Columbia, master mariner, do sol-y and sincerely declare that:

m a master mariner, and was at the time of the occurrences hereinafter men-d, and still am, the master of the schooner "Lily," of the port of Victoria, sh Columbia.

the 6th day of August, A. D. 1889, whilst I was on board and in command of aid schooner, and she then being on a sealing expedition, and being in latitude 9′ north and longitude 166° 15′ west, and at a distance of about 66 miles from est land, the United States Revenue-cutter "Richard Rush" overhauled the schooner.

'as first boarded by the First Lieutenant, who was armed, and who asked me many skins I had on board. I replied that he should find out himself, and said if he wanted to see the schooner's papers I would show them to him, and would ır him assistance should he want to search the schooner for contraband goods; would not acknowledge his right to seize me for sealing on the high seas.

e First Lieutenant then returned to the cutter, and in a short time returned, npanied by another boat of the cutter, which was in charge of the Second enant.

ey both came on board, and the First Lieutenant demanded of me the surrender e schooner, and asking at the same time for the schooner's papers. This I at leclined to do, and the First Lieutenant said unless I gave the schooner's papers n at once, he would take them by force. I then gave him the schooner's papers, sting of registry, coasting licence, and clearance.

e First Lieutenant then ordered both boats' crew to search the schooner, and took from my schooner 333 sealskins, all in good order.

then asked me if I would give him two sacks of salt. I told him that it would eless for me to refuse, as he could take them by force, so I told him to go ahead ielp himself.

then gave me two letters, the contents of which were unknown to me at the one of them being sealed, and the contents of which is still unknown to me, ther certifying that he had seized the schooner "Lily" for violation of the ed States laws, and taken possession of the schooner's papers.

then told me to proceed to Sitka, Alaska. I asked him if he wanted me to go ctoria or Sitka, Alaska; to which he replied that he had nothing to say, but imply told me his orders.

crew at this time consisted of a mate, George McDonald, and three white men wenty-five Indian hunters.

The Indian hunters said they would not proceed to Sitka, and, to avoid further trouble, I directed the schooner's course for Victoria, and arrived here the 1st day of September, at 7 o'clock P. M.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of "The Oath Ordinance, 1869."

(Signed) JOHN REILLY.

Declared at the city of Victoria, British Columbia, this 11th day of September, 1889, before me.

(Signed) J. W. SHOTBOLT,
Justice of the Peace.

I hereby make oath that the above declaration is true as far as I know of.

(Signed) GEORGE MCDONALD.

Declared at the city of Victoria, British Columbia, this 11th day of September, 1889, before me.

(Signed) J. W. SHOTBOLT,
Justice of the Peace.

[Inclosure 16 in No. 237.]

Certificate of Seizure.

UNITED STATES REVENUE-CUTTER "RUSH,"
Behring's Sea, Lat. 55° 29' N., Long. 166° 15' W., August 6, 1889.

To whom it may concern:

This will certify that I have this day seized the British schooner "Lily," of Victoria, British Columbia, John Reilly, master, for violation of law (section 1956 Revised Statutes), and taken possession of his ship's papers, viz., certificate of registry, coasting licence, and clearance.

(Signed) L. G. SHEPARD,
Captain, United States Revenue Marine.

No. 238.

Colonial Office to Foreign Office.—(Received October 25.)

[Extract.]

DOWNING STREET, *October 24, 1889.*

With reference to previous correspondence respecting the seizure of British vessels in Behring's Sea, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, inclosing an approved Minute of his Privy Council submitting a Report of the Minister of Marine and Fisheries on the subject.

[Inclosure 1 in No. 238.]

Deputy-Governor Sir W. Ritchie to Lord Knutsford.

OTTAWA, *September 23, 1889.*

MY LORD: With reference to your Lordship's telegram of the 18th ultimo, stating that Her Majesty's Government would be in a stronger position for dealing definitely with Behring's Sea cases if the appeals on 1886 seizures were pushed on, I have the honour to forward herewith a copy of an approved Minute of the Privy Council, submitting a Report of the Minister of Marine and Fisheries upon the subject.

I have, &c.

(Signed) W. J. RITCHIE.

[Inclosure 2 in No. 238.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 16th September, 1889.

The Committee of the Privy Council have had under consideration a cable despatch, dated the 18th August, 1889, from Lord Knutsford, intimating that Her Maj-
331 esty's Government considers that it would be in a stronger position for dealing definitely with Behring's Sea cases if appeals in 1886 seizures were pushed on, and the despatch goes on to say: "It is very unusual to press for diplomatic redress for a private wrong as long as there is a reasonable chance of obtaining it from the Tribunals of the country."

The Minister of Marine and Fisheries, to whom the cable despatch was referred, submits the annexed Report, in which the Committee concur.

The Committee recommend that your Excellency be moved to forward a copy hereof and the annexed papers to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 238.]

Mr. Tupper to the Governor-General in Council.

OTTAWA, *September 9, 1889.*

The Undersigned has the honour to report that he has had before him a cable despatch from Lord Knutsford to your Excellency, dated the 18th August, 1889.

This despatch intimates that Her Majesty's Government considers that it would be in a stronger position for dealing definitely with Behring's Sea cases if appeals in 1886 seizures were pushed on. The despatch goes on to say: "It is very unusual to press for diplomatic redress for a private wrong as long as there is a reasonable chance of obtaining it from the Tribunals of the country."

The Undersigned desires to call attention to some of the correspondence which has already taken place upon this subject.

It will be recollected that in July 1887 Her Majesty's Principal Secretary of State for the Colonies expressed the desire of the Marquis of Salisbury that before any further representations are made to the United States Government with a view to obtaining reparation, that Her Majesty's Government should be in possession of the record of the judicial proceedings in the District Court in Alaska.*

Copies of records in United States District Court for the District of Alaska in the cases of "Onward," "Carolena," and "Thornton" were duly forwarded in August 1887.† In acknowledging their receipt, the Marquis of Salisbury said: "I have further to request that you will endeavour to ascertain and report to me when it is probable that the appeals referred to in your despatches of the 2nd April, 1887, and of the 6th May, 1887, respectively, of the owners of the American ships which were seized on similar grounds, will come on for hearing, and whether any arrangement has been or can now in your opinion advantageously be made between the owners of the British and American vessels on the one side and the Government of the United States on the other, that one of these cases should be regarded as a test case, by which, in so far as the American legal Tribunals are concerned, the remaining cases might be held to be concluded.

"It must, however, be clearly understood that any such arrangement, if made, would only affect the legal remedies which were open to the masters and owners of these vessels in the American Courts, and would in no degree limit the right of Her Majesty's Government, after all such legal remedies were considered to be exhausted, to intervene through diplomatic channels and on international grounds on behalf of such masters or owners."

The suggestion, that the United States should agree to a test case for submission to the United States Supreme Court, was never acted upon. The cases of the United States vessels referred to in this despatch as having been seized under circumstances similar to those of the British vessels were discontinued by consent of Counsel representing both private owners and the United States Government.

No suit is, therefore, now pending before the Tribunals of the United States, with the exception of the case of the "W. P. Sayward," a British ship, as hereinafter explained.

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*Sir H. Holland, July 14, 1887.

†The Marquis of Salisbury to Sir L. West, August 10, 1887.

In January 1887, it appears the authorities in Washington directed the release of the "Onward," "Carolena," and "Thornton," the 1886 seizures referred to in the cable message under consideration.

Upon this subject an extract from a letter, dated the 17th August, 1889, from Mr. A. L. Belyea, Attorney for the owners of the vessels above referred to, and addressed to them, is appended to this Report.*

332 In the year 1888, the Canadian Government having inquired whether the vessels seized could be bonded without imposing on the owners the obligation to appeal, correspondence took place between the British and the United States authorities, and upon the 21st day of June a Confidential despatch was received by Lord Stanley from Lord Knutsford, inclosing a Memorandum, dated the 28th May, 1888, which Sir L. S. West had received. This Memorandum is as follows:

"Memorandum.

"In the cases of the condemned Behring's Sea vessels and their cargoes, it appears that the Proctor for some (and possibly all) of the British sealers failed to take an appeal from the Decrees of Condemnation entered by the District Court at Sitka. Consequently, they have lost the benefit of the Attorney-General's Order permitting release of the property on bond pending decision of the appeals, and, as the Decrees have become final, have no other than a diplomatic remedy."

It would, therefore, appear that Her Majesty's Government were advised in 1888 that no appeal could be taken in the matter of the seizures of 1886.

One vessel only of all those seized in the different years was released upon a bond of security for costs of an appeal being given, viz., the "W. P. Sayward," the circumstances attending which transaction are explained in Appendix (B).

The United States Marshal at Sitka was directed to take the remaining schooners (at that time in possession of the United States authorities, viz., the "Grace," "Dolphin," "Anna Beck," and "Ada") to Puget Sound for immediate sale.

The owners of the "Anna Beck," "Grace," and "Dolphin," seized in 1887, having been refused leave to appeal, permission was asked for bonding their vessels at appraised value, and to have the sale then about to take place postponed pending the settlement of the question.

After representation had been accordingly made, Mr. Bayard informed Sir L. S. West that the Acting Attorney-General had directed the postponement of the sale, and had instructed the United States Marshal to receive bonds in lieu of the vessel.

Mr. Bayard subsequently inclosed, under cover to Sir L. S. West, letters from the United States Marshal for the District of Alaska, in which he reported that the original appraisement of these vessels was excessive, and that the value had still further deteriorated in consequence of the climate of Alaska. For these reasons the owners of all these vessels, with the exception of the owners of the "Anna Beck," refused to bond them at the old appraisement. The owner of the "Anna Beck" alone was willing to give a bond at the original appraisement, subject to a final settlement of the matter without necessitating an appeal to the Supreme Court of the United States.

Accordingly, the Government of Canada requested the British Government to move the United States authorities to authorize the reappraisement in the cases of the "Grace" and "Dolphin," and to sanction the bonding of the "Anna Beck" in the manner proposed.

After much delay, it was intimated that the sale of these vessels would be proceeded with, and a reappraisement and bonding as above would not be sanctioned by the United States authorities.

From the correspondence herein reviewed, it will thus be seen that the only appeal in the Canadian case from the Judgment of the Court of First Instance which has been preferred is in the case of the "W. P. Sayward," seized in 1887.

This case has been duly inscribed in the Supreme Court of the United States for nearly a year, and, on inquiry, the Undersigned learns that it will not be reached in its turn for argument for another year from this date. It further appears that the suits regarding the United States vessels seized under similar circumstances have been discontinued; that no test case was ever agreed upon; and that the United States Government would not sanction the release and bonding of the seized vessels pending a settlement of the question.

The owners of the "W. P. Sayward" having to await the almost endless delays attending the arguments and decision of a case in the Supreme Court of the United States, the question whether an appeal lies in such a case being also involved, and the administration of that country evincing no desire to reach an early decision in their Appellate Court upon the question at issue, the Undersigned hopes that Her Majesty's Government will not consider that the just demands of the Canadian Government should not be pressed until the case of the "W. P. Sayward" is disposed of.

*Appendix (A).

The decision of the Court in the District of Alaska in the case of the "Dolphin," a case similar to all of the rest, proceeded upon the one ground, viz., that
333 Behring's Sea was ceded to the United States by Russia, and that the title in Russia at that time was exclusive."

It will be observed that none of the seizures in Behring's Sea forming the subject of correspondence between Her Majesty's Government and that of the United States involve the investigation of complicated facts. There is no pretension that any vessel seized was within the 3-mile or territorial limit. The sole question is the claim of the United States to the exclusive control over that part of the North Pacific Ocean known as the Behring's Sea.

The Undersigned submits that the fact that Russia once raised the same point does not establish on the part of the United States even a *prima facie* case, especially in view of the attitude of the latter country when such a claim was put forward by Russia.

So long ago as July 1888, the views of the Canadian Government regarding the propriety of owners of seized vessels assuming the obligation and responsibility of appealing from the decision of the District Court of Alaska were communicated to the Right Honourable the Secretary of State for the Colonies.

The Report of that date dealt with a despatch of the 9th March, 1888, from Her Majesty's Minister at Washington, relative to the then pending proceedings in the cases of the Canadian sealers seized in Behring's Sea.

The Committee deemed the obligation sought to be imposed upon the owners of Canadian vessels seized in the Behring's Sea of appealing from the decision of the Magistrate at Sitka was "obviously one which cannot with justice or propriety be enforced." The Report went on to say that "some doubts exist as to the right of appeal; and if it should be held that no appeal will be, the bonds will be forfeited. Apart from this risk, however, which the owners of the vessels are asked to take upon themselves, it appears that the giving of bonds of such a nature would involve the admission that the Courts of the United States had jurisdiction in regard to the seizures, and that the Laws of the United States applied in the cases of these vessels. Such propositions could by no means be admitted. The vessels had not entered within the waters over which the Laws of the United States extend, and over which the Executive or Judiciary of that country have any authority.

"The vessels in question were molested in their lawful occupation on the high seas, and were seized by vessels in the service of the United States, but possessing no right whatever to molest the people of Canada or their property on the ocean.

"Similar outrages have been committed in the preceding year, and the vessels seized then were ordered to be surrendered by the United States authorities. In the present cases, therefore, the repetition of such acts of violence was a proceeding for which the owners of the vessels have the right to expect that Her Majesty's Government will demand and exact redress. They should not be asked to seek that redress in the Courts of any foreign country whatever: the Courts of the United States have no more cognizance of their complaint than the Court of any other foreign country."

The Undersigned is not aware that Her Majesty's Government at any time previous to the cable message now under consideration intimated that the above ground was not well taken. On the contrary, previous to the receipt of this cable message the particulars of every seizure had been furnished by the Canadian Government to Her Majesty's Government, the opinion of the Law Officers of the Crown had been obtained by Her Majesty's Government, advising that the claims could be pressed, and the Marquis of Salisbury had in a despatch of the 10th September, 1887, to Sir L. S. West, dealt fully with the claim set up by the Administration of the United States in connection with these seizures, in which he stated: "Her Majesty's Government have carefully considered the transcript record of the Judicial proceedings in the United States District Court in the several cases of the schooners 'Carolena,' 'Onward,' and 'Thornton,' which were communicated to you in July, and were transmitted to me in your despatch of the 12th of that month, and they cannot find in them any justification for the condemnation of these vessels."

It is to be remembered that these are the seizures of 1886, to which the cable message has special reference.

The following vessels, while pursuing their lawful occupation in the North Pacific Ocean, have been wantonly seized and molested by Revenue-cutters of the United States: "Carolena," 2nd August, 1886; "Onward," 2nd August, 1886; "Thornton," 2nd August, 1886; "W. P. Sayward," 9th July, 1887; "Dolphin," 12th July, 1887; "Anna Beck," 2nd July, 1887; "Grace," 17th July, 1887; "Ada," 25th August, 1887; "Alfred Adams," 6th August, 1887 (escaped); "Black Diamond," 11th July, 1889 (escaped); "Pathfinder," 27th August, 1889; "Minnie," 15th July, 1889; besides
334 the "Favorite," warned off under threat of seizure, 2nd August, 1886; and the "Triumph," searched 11th July, 1889.

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*See Report, Governor of Alaska, 1887.

In every instance, as already stated, the Canadian Government has placed Her Majesty's Government promptly in possession of the information in its possession, and it is with much regret that, at this date, when the period for appealing has long since expired in the case of the seizures of 1886, the Undersigned learns that any further steps are considered necessary to strengthen the demand made in 1886 upon the United States Government, more especially in view of similar outrages now being daily perpetrated.

With deference, the Undersigned further submits that the intimation in the cable despatch above mentioned is somewhat unusual under the circumstances which attended the seizure of the ships in question.

If the alleged infraction of the Laws of the United States had occurred in the waters over which that country is or was entitled to exercise jurisdiction, the Courts of the United States could with propriety be first resorted to before pressing any claim for the immediate attention of the Executive.

In view of the firmness with which the rights of British subjects on the high seas have been maintained in the past, the Undersigned fails to appreciate not merely any reason for the long delay in obtaining satisfaction from the aggressive and hostile action exercised against British subjects and British property by the United States, but also for the wanton continuance of this treatment from which so much direct and indirect damage and loss is sustained by one of Her Majesty's Colonial Possessions. Moreover, the Undersigned would call attention to the imminent danger of loss of life, not to speak of the physical suffering already sustained, since it requires no argument to show that the lawless violence on the part of the Revenue-cutters of the United States Government may at any time lead to forcible resistance from the crews of British vessels being pursued and molested in their lawful pursuits.

The Undersigned, therefore, recommends that his Excellency the Governor-General be moved to acquaint the Right Honourable the Secretary of State for the Colonies with these views, and to urge that no further time be permitted to elapse without securing for British subjects in Canada the same freedom in the navigation and enjoyment of the waters of the Behring's Sea which the United States claimed for the seamen of all nations when the territory adjacent to that part of the Pacific Ocean belonged to the Empire of Russia.

Respectfully submitted.

(Signed) CHARLES H. TUPPER,
Minister of Marine and Fisheries.

APPENDIX (A).

Re *Behring's Sea Seizures.*

To Captain JOHN G. COX and WILLIAM MUNSIE, Esq.,
Victoria, British Columbia.

VICTORIA, *August 17, 1889.*

GENTLEMEN: In reference to the orders issued by the United States Government for the release of the British schooners "Carolena," "Onward," and "Thornton," seized in Behring's Sea in 1886, and since detained at Ounalaska, I received in August last from the United States Marshal, Atkins, of Alaska, the following letters:

"A. L. BELYEA, Esq., *Victoria.*

"DISTRICT OF ALASKA,
"OFFICE OF UNITED STATES MARSHAL,
"*Sitka, August 4, 1888.*

"DEAR SIR: In reply to your letter of the 17th July, I have the honour to state that in the month of February 1887 the officers of the District Court of this district received a despatch purporting to be from the United States Attorney-General, directing the release of the schooners 'Onward,' 'Thornton,' and 'Carolena,' but, on what was then deemed sufficient evidence, the despatch was thought to be a forgery, and no action was taken in the matter until the receipt in October last of another despatch from the Honourable Attorney-General, as follows:

"'Let the vessels "Carolena," "Onward," and "Thornton" be released, as ordered in mine of the 6th January last.'

"On the receipt of the above despatch I gave notice thereof to Captain J. D. Warren and to Mr. C. Spring, of Victoria, owners of two of the vessels, and should have given like notice to the owner of the 'Carolena' had I known his address and name. I requested Captain Warren to notify all owners at Victoria,

and Mr. Spring published the notice I gave him in the Victoria papers. This I deemed sufficient notice to all the parties concerned. I have not received any order from Washington other than above mentioned.

"Very respectfully,

(Signed) "BARTON ATKINS,
"United States Marshal."

The following copy of the despatch referred to in Marshal Atkins' letter, and of the order made thereon by Judge Dawson, of the United States District Court, Alaska, I obtained shortly afterwards from the official records at Sitka:

"To Judge LA FAYETTE DAWSON and M. D. BALL,
" United States District Attorney, Sitka, Alaska.

"WASHINGTON, *January 26, 1887.*

"I am directed by the President to instruct you to discontinue any further proceedings in the matter of the seizure of the British vessels 'Carolena,' 'Onward,' and 'Thornton,' and discharge all vessels now held under such seizure, and release all persons that may be under arrest in connection therewith.

(Signed) "A. H. GARLAND,
"Attorney-General."

"Copy of Order.

"To BARTON ATKINS,
" United States Marshal for District of Alaska.

"You are hereby directed to release the vessels 'Carolena,' 'Onward,' and 'Thornton,' and 'San Diego,' which were seized in Behring's Sea for violation of section 1956 United States Statutes, together with their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels.

"This 10th day of February, 1887.

(Signed) "LA FAYETTE DAWSON,
"District Judge, District of Alaska."

About the time I received the above letter I met the Marshal in this city, and asked him why no official notice of the release of these schooners had been given to the owners. In reply, he said he thought it had been done, but if not he would attend to the matter on his return to Sitka. Such notice not coming to hand as expected, I, on the 16th October following, wrote the Marshal as follows:

"BARTON ATKINS, Esq.,
"United States Marshal, Sitka, Alaska.

"VICTORIA, BRITISH COLUMBIA, *October 16, 1888.*

"MY DEAR SIR: You may remember a conversation I had with you when in Victoria in reference to the non-receipt of official notice of the release of the schooner 'Carolena' at Ounalaska by her owners. At their request I have to ask that you will kindly forward the same to me by return mail. The owners, as you may notice on referring to the records of the Court, are Munsie and Co. (Munsie and Co.) of this city.

"I am, &c.

(Signed) "A. L. BELYEA,
"Attorney for Munsie and Co."

By return mail I received from the Marshal a letter, saying that official notice had been sent to the owners of the "Carolena," with an order directing the Deputy Collector at Ounalaska to deliver the vessel to the owners, which notice and order are to be found on pp. 7 and 8 of Mr. Milne's statement. Thus it was that not till nearly two years after the Washington authorities ordered the release of this vessel, and then only after asking for it was such notice received; and to this day the owners of the "Thornton" and "Onward" have received no such official notice or order for delivery, and could not, if they so desired, obtain possession of their vessels.

The telegram ordering the release was received at Sitka on the 9th February, 1888.

The vessels were then under order for sale, which order Judge Dawson immediately revoked, and on the 19th of same month made the order for the release above recited. This order was given to the Marshal, but for the reasons apparently mentioned in the Marshal's letter to me of the 4th August, 1888, the matter dropped.

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The officials at Sitka took no steps to find out whether the telegram was genuine or not, nor did they, so far as I can learn, ever acknowledge or notify the Washington authorities of its receipt. This shuffling on the part of the Court Secretary calls "some misconception and mistake," but those who know and have felt the power of *the Alaska Commercial* Company in Alaska call it a vastly different name.

APPENDIX (B).

Extract of a Letter from Mr. A. L. Belyea to the Deputy Minister of Fisheries, May 23, 1888.

"The [the owner] had gone to Sitka to secure, if possible, the release of all the schooners seized in 1887, viz., the "Grace," "Dolphin," "Anna Beck," "W. P. Sayward," and "Ada." The bond on release was conditioned on prosecuting an appeal from the Alaska District Court to the Supreme Court of the United States. The formal motion thus became one for leave to perfect an appeal, and such motion for each of the vessels was made on the 14th April last before Judge Dawson at Sitka, and in every case refused, on the grounds that the time for allowing an appeal had expired. Captain Warner's Counsel then applied for a record of the order refusing leave to appeal. This was on Saturday. On Monday following, April the 16th, without any application therefor by the defendant or any one on his behalf, Judge Dawson offered to rescind the order of Saturday in the case of the "W. P. Sayward," and release her to the owners. She was then lying at Puget Sound, under an order for sale on that day. The offer was accepted (contrary, as Captain Warren says, to the expectation of the United States authorities at Sitka), and the order of the previous Saturday rescinded, and leave granted to appeal. I am not informed as to the amount of the bond.

APPENDIX (B 2).

[This is identic with Appendix (A) from Mr. Atkins' letter of August 4, 1888, to the end.]

No. 239.

Mr. Edwardes to the Marquis of Salisbury.—(Received October 28.)

WASHINGTON, *October 9, 1889.*

MY LORD: With reference to the question of appeals filed in the Supreme Court by owners of sealers in Behring's Sea, of which up to now it has been believed that there were none but the case of the "'W. P. Sayward' *v.* the United States," I have the honour to inclose a copy of a Memorandum which I have received from Mr. Calderon Carlisle on the subject of an appeal, viz., "The schooner 'Sylvia Handy' *v.* the United States," which, it appears, had escaped the notice of even the Clerk of the Court, in spite of the many applications which have of late, under the direction of Her Majesty's Legation, been made.

I shall not fail to secure copies of the record, should it be printed.

I have, &c.

(Signed) H. G. EDWARDES.

[Inclosure in No. 239.]

Memorandum as to the Case of the Schooner "Sylvia Handy" v. the United States.—(October Term, 1889, No. 683.)

The Clerk of the Supreme Court telephoned me yesterday that he had discovered the above appear on the docket of the Court, of which he knew nothing on my last visit there. The record, which I have examined, is practically the same as that in the case of the "Sayward." It seems to have been filed on the 16th June, 1888. Mr. McKenna, Member of Congress from California, entered his appearance to secure the filing of the record, but the real Counsel in the case is Mr. Howell L. Powell, 207, Sansome Street, San Francisco, California.

The Clerk's attention was called to this case by the visit of local Counsel yesterday, to learn the expense of printing the record in the case. There is included in the record a brief for claimants, which discusses the pretensions of Russia in Behring's Sea. The schooner's cargo consisted of 1,679 skins, and the schooner and her cargo were appraised at 12,673.25 dollars.

The schooner is described as of San Francisco; appears to be registered in the United States; and there is a certificate of deposit of some of her papers with the United States Consul at Victoria, British Columbia. The capture was made 17 miles from Cape Cheerful in 54° 12′ north, 166° 50′ west. The vessel was captured on the 2nd September, 1887, with forty-two unskinned seals on deck.

(Signed) C. CARLISLE.

WASHINGTON, *October 1, 1889.*

No. 240.

Mr. Edwardes to the Marquis of Salisbury.—(Received October 28.)

WASHINGTON, *October 15, 1889.*

MY LORD: I had the honour to receive your Lordship's telegram of the 14th instant, in which, with reference to my despatch of the 12th instant, you informed me that the unofficial assurance given to Her Majesty's Government by Mr. Bayard that no further seizure of British vessels in Behring's Sea should take place pending the discussion of the points at issue between Her Majesty's Government and that of the United States, which was referred to in your Lordship's despatch of the 2nd October, was the assurance which was given unofficially by the United States Minister in London and also by Mr. Bayard to Sir L. West in the month of April last year.

With the view of removing any misconception on the part of Mr. Blaine owing to the reply I had given to his inquiry when reading your Lordship's above-mentioned despatch to him, that I believed the assurance referred to was given by Mr. Bayard in a letter addressed to Sir L. West, and that the letter would be found in the printed correspondence on the subject which was laid before Congress this year, I wrote to Mr. Blaine a letter, a copy of which I have the honour to inclose, in accordance with the information with which your Lordship did me the honour to furnish me in your telegram above referred to.

I have, &c.

(Signed) H. G. EDWARDES.

[Inclosure in No. 240.]

Mr. Edwardes to Mr. Blaine.

WASHINGTON, *October 14, 1889.*

MY DEAR MR. BLAINE: When I had the honour to read to you on Saturday, the 12th instant, two despatches addressed to me by the Marquis of Salisbury on the subject of the seizures of British sealers in Behring's Sea, you inquired of me, when I reached the passage which runs as follows: "Mr. Bayard did, indeed, communicate to us, unofficially, an assurance that no further seizures of this character should take
338 place pending the discussion of the questions involved between the two Governments," if I could tell you in what way this assurance was unofficially communicated to her Majesty's Government.

I replied that I believed it had been so communicated in a letter addressed by Mr. Bayard to Sir L. West, and that that letter would be found in the printed correspondence on the subject laid before Congress this year.

I have since learnt that the assurance which Lord Salisbury had in mind when writing the despatch I read was not that to which I referred in my reply to you, but was an assurance communicated unofficially to his Lordship by the United States Minister in London and also by Mr. Bayard to Sir L. West in the month of April last year.

I have, &c.

(Signed) H. G. EDWARDES.

241.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *November 2, 1889.*

SIR: I have laid before the Marquis of Salisbury Mr. Meade's three letters of the 24th ultimo, with their inclosures, relating to the question of the seizures of British sealing-vessels by the authorities of the United States in the waters of Behring's Sea.

In reply, I am directed by his Lordship to request that you will state to Lord Knutsford that copies of all these papers will be forwarded at once to Her Majesty's Minister at Washington.

I am to suggest that the Governor-General of Canada should be informed that Sir Julian Pauncefote, before leaving for his post, was instructed to take the earliest opportunity of discussing the question with Mr. Blaine.

Lord Salisbury proposes to await Sir Julian's Report before deciding as to what further steps should be taken in the matter.

I am, &c.

(Signed) T. H. SANDERSON.

No. 242.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *November 5, 1889.*

SIR: I have received Mr. Edwardes' despatch of the 15th ultimo, forwarding copy of the private letter which he addressed to Mr. Blaine respecting the unofficial assurance given to Her Majesty's Government that no further seizure of British vessels in Behring's Sea should take place pending the discussion of the points at issue between the two Governments.

I have to inform you that Mr. Edwardes' action in this matter is approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 243.

Sir C. Lampson and Co. to Foreign Office.—(Received November 7.)

64, QUEEN STREET, *London, November 6, 1889.*

DEAR SIR: We addressed Lord Iddesleigh on the 12th November, 1886, on the subject of the Behring's Sea seal fishery.

Since that time the number of sealing-vessels, mostly owned in British Columbia, has steadily increased, and this year, owing to the high

prices obtainable for the skins, as many as fifty schooners, some of them fitted with steam, and amply provided with firearms, have been engaged in the capture of female seals.

339 It is estimated that their catch this season will amount to no less than 40,000 skins. This number does not include the many animals killed or mutilated, but not retrieved.

Now, if this indiscriminate slaughter of female seals cannot be stopped, or at all events restricted, by some International Agreement (as to a close time, for instance), the animal will, before many years are over, become extinct, and a large industry, in which Great Britain is deeply interested, will be lost.

Already there are unmistakable signs that the number of seals annually visiting the two breeding islands in the Behring's Sea is decreasing, for from Reports lately to hand, we learn that the Superintendent on the islands, which are leased from the United States Government by the Alaska Commercial Company of San Francisco, has this year found considerable difficulty in obtaining the usual quantity of desirable male seals, and estimates that the herd has decreased fully one-third in the last ten years.

In submitting these facts to you, we would urge the importance of arriving at a speedy settlement of this question before it is too late.

We are, &c.

(Signed) C. M. LAMPSON AND Co.

No. 244.

Colonial Office to Foreign Office.—(Received November 8.)

DOWNING STREET, *November 8, 1889.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Deputy-Governor of Canada relating to the question of the Behring's Sea seizures, from which it appears that the High Commissioner for Canada is to be instructed to place himself in communication with Her Majesty's Government, with the object of expediting a satisfactory settlement of the general question.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 244.]

Sir W. J. Ritchie to Lord Knutsford.

OTTAWA, *October 23, 1889.*

MY LORD: I have the honour to forward herewith a copy of an approved Minute of the Privy Council, having reference to the course which the owners of British schooners seized in Behring's Sea by the United States cutter "Rush" proposed to follow in the event of Captain Sheppard's arriving at Victoria.

Your Lordship will note the recommendation of the Minister of Marine and Fisheries, that the High Commissioner be instructed to place himself in personal communication with Her Majesty's Government, with the object of expediting a satisfactory settlement of the general question of seizures in Behring's Sea.

I have, &c.

(Signed) W. J. RITCHIE, *Deputy-Governor.*

[Inclosure 2 in No. 244.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 18th October, 1889.

On a report, dated the 12th October, 1889, from the Minister of Marine and Fisheries, stating that the following telegram has been received from Messrs. Carnie and Munsie, of Victoria, British Columbia, on behalf of parties interested in the fur-seal fisheries of Behring's Sea:

340 "Cutter 'Rush' expected here. Owners of seized schooners think of holding Captain Sheppard to bail in action for damages. What do you advise?"

To which the Minister replied as follows:

"Telegram yesterday received. Cannot advise under present circumstances, but I do not anticipate any beneficial result from such a course."

The Minister submits that, while his reply discouraged the action contemplated by the parties interested, it is quite competent for any British subject to institute such proceedings under the Law of Canada.

The Minister desires to refer to a newspaper cutting, herewith annexed, taken from the "Ottawa Citizen," purporting to be a report of a reply by Captain Sheppard, of the United States Revenue-cutter "Richard Rush," to an inquiry whether he had any knowledge of the intention indicated in the above telegram.

The Minister, with reference to the information supplied from time to time to the Imperial Government on the subject of the seizure of British vessels in the Behring's Sea, and to the great national importance of the earliest possible settlement of the question, owing not only to the continuation of the outrages during the past season by United States Revenue-cutters, but to the growing doubt on the part of the Canadian people as to whether Her Majesty's Government will actively support the demands of the Dominion of Canada in consequence of the long delay which has taken place in arriving at a satisfactory adjustment of the question, recommends that the High Commissioner for Canada in London be directed to place himself in personal communication with Her Majesty's Government, with the object of expediting in any way he may be able to do a speedy and satisfactory settlement of the question.

The Committee advise that your Excellency be moved to forward a copy of this Minute to the Right Honourable the Secretary of State for the Colonies, and that a copy be also sent to the High Commissioner for Canada.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 244.]

Extract from the "Ottawa Citizen" of October 12, 1889.

SEATTLE, WASHINGTON, *October 11, 1889.*

The United States Revenue-cutter "Rush" arrived here yesterday from Alaska. Lieutenant-Commander Sheppard was interviewed regarding rumours current here that British Columbians were lying in wait for him to punish him for seizing their schooners. The Commander smiled, and said he had not heard of any such threats until he had read them in the papers on his arrival at Port Townsend. He said that he did not believe anything of the kind had been uttered, and the statement must have come from irresponsible persons. If there was any truth in it, and he could have been apprised of it in time, he would have steamed into Victoria, and have shaken the American flag in the face of the Victorians. He said he was on good terms personally with the prominent men in Victoria, and did not believe that any indignity to an American Government ship would be countenanced by the people of Victoria.

No. 245.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 11.)

WASHINGTON, *October 31, 1889.*

MY LORD: I have the honour to inclose herewith copies of an article which has appeared in a San Francisco newspaper on the subject of the seizures in Behring's Sea, which maintains the exclusive jurisdiction of the United States in that sea. The article is written by Mr. Felton, one of the representatives for the State of California in Congress.

An answer to this (copies inclosed) appeared in the New York
341 "Evening Post," the author of which is Mr. Robert Rayner, who has already written a very able letter on this subject.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 245.]

Extract from the "San Francisco Argonaut" of August 12, 1889.

THE QUESTION OF BEHRING'S SEA.

[By Charles N. Felton.]

[The annexed article, by the Honourable Charles N. Felton, Member of Congress, will be found of much interest, particularly at this time. Mr. Felton is thoroughly conversant with the subject, as he was a member of the Conference Committee between the Senate and the House which caused the passage of the Bill amendatory of the Laws regulating the fur-seal fisheries in Behring's Sea. This Bill was passed during the closing hours of the Cleveland Administration.—EDS.]

In view of the fact that the Government of the United States has seized the British schooner "Black Diamond," confiscated the vessel and cargo, as required by our Statutes, for evasion or infringement of our laws, and that our right to do so is questioned, and perhaps may become an international question, it occurs to me that a statement of the facts upon which is based our rights and title would not be uninteresting to your readers; hence, I will attempt to give them such a statement.

The title of the United States to Alaska and the Behring's Sea was acquired from Russia by the Treaty of Cession made in 1868, in which she "ceded and conveyed all the rights, franchises, privileges now belonging to Russia in the ceded territory or dominion, and appurtenances thereto;" the same being contained within the geographical limits herein set forth, to wit:

"The eastern limit is the line of demarcation between the Russian and British possessions in North America, &c. The western limit, within which the territories and dominion conveyed are contained, pass through a point in Behring's Strait on the parallel of 65° 30′ north latitude, at its intersection by the meridian which passes midway between the Island of Krusenstern or Ignalook and the Island of Ratmanov or Noonarbrook, and proceeds due north, without limitation, into the same frozen ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly south-west through Behring's Strait and Behring's Sea, so as to pass midway between the Island of Attoo and the Copper Island, of the Kormandorski couplet or group, in the North Pacific Ocean, to the meridian of 193° west longitude, so as to include the whole of the Aleutian Islands east of that meridian."

Russia's title was based upon the following facts:

Behring's Sea, formerly called the Sea of Kamchatka, was discovered by Vitus Behring, a Russian subject and officer, in 1725. From that date to that of the purchase of Alaska by the United States, its waters were surrounded by Russian territory, except Behring's Strait upon the north, and the south-west outlet to the North Pacific Ocean. Soon after its discovery, it was occupied by Russian citizens as traders and fur-hunters, and several trading stations were established upon its coasts and islands by Russian subjects.

In 1745, the Aleutian Islands were discovered by Russia. In 1768, Behring's Sea, the whole archipelago, and the Peninsula of Alaska, were explored by an expedition ordered by the Empress Catherine. Subsequently, Russia caused four other exploring expeditions to be made, in 1785, 1803, 1815, and 1826. Vancouver discovered the coast of British Columbia in 1790, and in the same year the Columbia River was entered by Gray. It will be here noted that Russia's discoveries and titles on the north-western coast antedate those of the other nations some sixty-five years.

In 1764, the Russian Government granted the right to trade on the Aleutian Islands to a Russian Company, who created and conducted a considerable number of trading stations.

In 1799, the then Russian Emperor Paul issued his Imperial Ukase, asserting the Dominion of Russia, by right of discovery and occupancy, to all the territory
342 embraced from Behring's Strait on the north to the 55th parallel on the American coast, and as far south as Japan on the coast of Asia; and invested the Russian-American Company with its absolute control, and, if necessary, the land and naval forces of the Empire were ordered to maintain their jurisdiction. To

this Imperial act no protest was made on the part of any of the nations, nor were Russia's rights disputed or questioned. Thus tacitly, at least, all the nations conceded her rights, based first upon discovery, and next upon continued occupancy and peaceful and undisputed possession for nearly three-quarters of a century.

In 1821, upon the complaint of this Company to the Russian Government that their rights under their Charter were being disturbed by the interference of foreigners, the then Emperor Alexander issued his Manifesto, extending his dominion to the 51st parallel on the North American coast, and prohibiting foreign vessels from approaching within 100 miles of the shore. I quote from said Manifesto as follows:

"Section 1. The transaction of commerce, and the pursuit of whaling and fishing, or any other industry, on the islands, in the harbours and inlets, and, in general, all along the north-western coast of America, from Behring's Strait to the 51st parallel of northern latitude, and likewise on the Aleutian Islands, and along the eastern coast of Siberia, and on the Kurile Islands—that is, from Behring's Strait to the southern promontory of the Island of Urup, viz., as far south as latitude 45° 50′ north—are exclusively reserved to subjects of the Russian Empire.

"Sec. 2. Accordingly, no foreign vessel shall be allowed either to put to shore at any of the coasts and islands under Russian dominion, as specified in the preceding section, or even to approach the same to within a distance of less than 100 Italian miles. Any vessel contravening this provision shall be subject to confiscation with her whole cargo."

To this edict, the Governments of the United States and Great Britain entered protest, in so far as it extended the dominion of Russia 4° south, and to the 100-mile limit. Mr. Adams, then Secretary of State, conceded the boundary named in the Charter to the Russian-American Company, viz., to the 55th parallel on the coast of the North Pacific Ocean, but resisted the claim of Russia to the coast between the 51st and 55th parallels north, also the exclusion of American ships from the North Pacific Ocean, stating that "with the Russian Settlements at Kodiac, or at Sitka, the United States may fairly claim the advantage of a free trade, having so long enjoyed it unmolested, and because it has been, and would continue to be, as advantageous to those Settlements as to them."

Mr. Adams also said, "It may suffice to say that the distance from shore to shore of this sea, in latitude 51° north, is not less than 90° longitude, or 4,000 miles," having exclusive reference to the Pacific Ocean.

A careful examination of the protests before mentioned and the correspondence in reference thereto, as well as the Treaties which settled the controversy—that of 1824 between Russia and the United States, and that of 1825 between Russia and Great Britain—will disclose the fact that they all had reference to the coast and waters of the North Pacific between the 51st parallel north latitude and Mount St. Elias and east of the 141st meridian of longitude. In all the protests, correspondence, negotiations, and Treaties, there is no allusion to Behring's Sea, the Aleutian Islands, or to any region of country or sea within 1,000 miles of its eastern border; hence the sovereignty asserted and maintained by Russia over that sea from its discovery to its partition and cession to the United States, a period of over 140 years, has never been officially questioned or denied.

At the time of and when negotiating these Treaties, the High Contracting Powers all knew of the existence of Behring's Sea, the Aleutian Islands, the Prebilov Islands (St. George and St. Paul) within Behring's Sea, and the valuable life on them and in their surrounding waters, and that these constituted the chief value of Russia's possessions on the North American coast and waters. Charts had been published before and as early as 1805 by England and Russia, as accurately bounding and defining the waters of Behring's Sea on the north-west coast to the North Pacific Ocean, as do the Maps of to-day, Behring's Sea then being called the Sea of Kamchatka.

In these Treaties, there is no allusion to, or surrender of, Russia's dominion over Behring's Sea and the Aleutian chain of islands by expression or inference. Russia surrendered or abandoned her claim only to the control of the North Pacific Ocean and to the north-west coast south of latitude 54° north, yet her title to the Aleutian Islands, extending as far south as 51° north latitude and longitude 166° to 167° west, is not and never has been disputed or invalidated.

343 It will be observed by the description of territory granted to us in our purchase of Alaska, that its western boundary divides Behring's Sea between us and Siberian Russia, and the fact cannot be successfully denied, as it is a matter of history, that Russia, from her discovery of Behring's Sea down to the cession to the United States, has controlled the navigation of its waters and the taking of its marine life. To this end her navy has patrolled it, and, in pursuance of her laws, taken, confiscated, and burned marauding vessels; she has since pursued, and is now pursuing, the same policy on her part of Behring's Sea.

In confirmation of this, I quote from the official order issued by the Russian Government, as late as the 13th January, 1882:

"*Notice.*—At the request of the local authorities of Behring and other islands, the Undersigned hereby notifies that the Russian Imperial Government publishes, for general knowledge, the following:

"1. Without a special permit or licence from the Governor-General of Eastern Siberia, foreign vessels are not allowed to carry on trading, hunting, fishing, &c., on the Russian coast or islands in the Okhotsk and Behring's Seas, or on the north-east coast of Asia, *or within their sea boundary-line.*

"5. Foreign vessels found trading, hunting, fishing, &c., in Russian waters without a licence or permit from the Governor-General, and also those possessing a licence or permit who may infringe the existing byelaws on hunting, shall be confiscated, both vessels and cargoes, for the benefit of the Government. This enactment shall be enforced henceforth, commencing with A.D. 1882.

"6. The enforcement of the above will be intrusted to men-of-war, and also Russian merchant-vessels, which, for that purpose, will carry military detachments, and be provided with proper instructions."

There is nothing ambiguous in the language of this Proclamation. It means that Russia will enforce her sovereignty over the western half of Behring's Sea, within her "sea boundary-line."

The cession of Alaska to the United States by Russia, and the terms of the Treaty making such cession, were well known to all nations, yet no protests or objections were made, though it was well understood to convey the title to the waters of Behring's Sea. The discussion of the treaty in the United States Senate was notice to our nation and to all the world. In confirmation of which, I quote from the remarks of Mr. Charles Sumner, Chairman of the Committee on Foreign Affairs of the Senate of the United States, at the time of the consideration of the Treaty. Mr. Sumner said, speaking for the Treaty:

"'The seal, amphibious, polygamous, and intelligent as the beaver, has always supplied the largest multitude of furs to the Russian Company.' After enumerating the land furs, the value of the walrus for ivory, he adds: 'I mention the sea-otter last; but in beauty and value it is the first. In these respects it far surpasses the river and land otter, &c. I come now to the fisheries, the last head of this inquiry, and not inferior to any other in importance; perhaps the most important of all. What even are sea-otter skins by the side of that product of the sea, incalculable in amount, which contributes to the sustenance of the human family?'"

Thus showing that the acquisition of the products of Behring's Sea, its fur-bearing animals, and fisheries, were regarded as the chief object of the purchase.

Again, Mr. Sumner, in the course of his remarks, said:

"'Traversing Behring's Sea midway between the Island of Attoo on the east and Copper Island on the west, to the meridian of 173° east longitude, leaving the prolonged group of the Aleutian Islands in the possessions now transferred to the United States, and making the western boundary of our country the dividing-line which separates Asia from America.'"

Mr. Sumner again said:

"'In the Aleutian range, beside innumerable islets and rocks, there are not less than fifty-five islands exceeding 3 miles in length; there are seven exceeding 40 miles, with Oonimak, which is the largest, exceeding 73 miles. *In our part of Behring's Sea* there are five considerable islands, the largest of which is St. Lawrence, being more than 96 miles long.'"

344 Note the expression of the distinguished Senator, "In our part of Behring's Sea." This, coming from so high an authority, in language so plain and explicit as not to admit of misconstruction, evinces the intention and understanding of the Contracting Governments, which was the partition of the sovereignty of the waters of Behring's Sea by a south-westerly line through it, the eastern portion, with Alaska, being the territory of the United States, and the western portion, with Siberian Asia, that of Russia, their combined territory and shore-lines surrounding Behring's Sea, except the northern and southern outlets.

The discussion in the United States Senate, and its final action upon this Treaty and question, was a notice to the world of Russia's right to transfer this valuable marine territory, to which not even a suggestion to the contrary has ever been raised on the part of any nation.

If more were needed to convince us of the rights and intentions of the High Contracting Parties, we have only to refer to the correspondence between our then Secretary of State, Mr. Seward, and our Minister at St. Petersburgh. (Printed in executive documents for the use of Congress.)

In May 1867 our Minister writes as follows:

"SIR: Your despatch No. 241 of the 1st April, 1867, inclosing the Treaty between Russia and America, ceding us all Russian America, was duly received. I awaited the expression of European and Russian sentiments in reference thereto before answering you.

"I congratulate you upon this brilliant achievement, which adds so vast a territory to our Union, whose ports, whose mines, whose waters, whose furs, whose fisheries are of untold value, and whose fields will produce many grains (even wheat), and become thereafter, in time, the seat of a hearty white population."

Again, in November 1867, the American Minister at St. Petersburgh, giving a description of Russian America, says, in reference to the Aleutian Islands:

"The Aleutian Islands may attract transient traders, but no permanent settlers. To inhabit them one must be an Aleut, and if it were not for the sea surrounding the islands, this country, owing to its unfavourable climatic conditions and the sterility of its ground, would have never been inhabited at all."

From the first extract, it will be observed that the American Government exercised caution before concluding the Treaty, and awaited the expression of European sentiments in reference to the same. Its acts were open and free to criticism, and the last quotation is conclusive on the point that our Government fully comprehended the value of the waters of Behring's Sea, and for this reason mainly was the purchase made.

Had it been understood that the waters of Behring's Sea and its marine life were free to the fishermen of all nations, including ours, there could have been no incentive on the part of our Government for its purchase at the price of 7,200,000 dollars. In any other view of the case it would have been absurd, but, on the contrary, it was known that Russia did, from the time of its discovery, control these waters, and that she had ever asserted her title and maintained her dominion by causing her ships of war to patrol them.

It is admitted on all sides that whatever title Russia had at the date of the transfer of the territory we acquired and still possess, and the United States being in possession and claiming ownership, our right must be conceded until it is established that our grantor, Russia, had no title to this territory, or that she did not maintain dominion over it, which, I apprehend, cannot be successfully accomplished.

There was no concealment of this Treaty or its purpose. Russia divided her possessions of Behring's Sea with us in the presence of all nations, to which there was no remonstrance on the part of any of them.

By an Act of Congress, approved as early as the 27th July, 1868, it is provided: "The Laws of the United States relating to customs, commerce, and navigation are extended to and over all the mainland, islands, and waters of the territory ceded to the United States by the Emperor of Russia." It also provides that (see Revised Statutes, section 1956) "no person shall kill any fur-seal or other fur-bearing animals within the limits of Alaska territory, or in the waters thereof."

In 1881, it coming to the knowledge of the United States Government for the first time that unauthorized persons were illegally taking seals in Alaskan waters, the Secretary of the Treasury caused to be published a notice to all that the Law prohibiting the killing of seals in Alaskan waters would be enforced against all
345 comers, and its penalties be inflicted (Congress having made provision to equip the vessels of the Revenue Marine for that purpose); since which time this notice has been yearly published, and to-day, both this and the Russian Governments are protecting their respective dominions in the waters of Behring's Sea, as they ever have done, from all unauthorized comers.

It might be interesting to continue the history of the legislation of Congress on this subject, and ascertain upon what facts it based its late action, the necessity for such action, and to speculate upon its probable results, but my time and your space will not permit. Suffice it to say, Congress had entire confidence in our title, the justice of our cause, our ability to maintain our rights, and believed that not to have maintained those rights would have been unwise, beneath the dignity of the nation, and even craven.

[Inclosure 2 in No. 245.]

Extract from the "New York Evening Post" of October 18, 1889.

THE BEHRING'S SEA QUESTION.

(A REPLY TO CONGRESSMAN FELTON.)

SALEM, MASS., *October 6.*

To the Editor of the "Evening Post."

SIR: The Honourable Charles N. Felton published in the San Francisco "Argonaut" of the 12th August last an attempt at a vindication of our seizures of foreign sealing-vessels in that part of the Pacific called Behring's Sea, and he says of it that it is a statement of the facts. Mr. Felton was a member of the last Congress, and also a member of the Conference Committee which had to compromise the difference between Senate and House over our last very sapient piece of legislation concerning

the waters of Alaska. The positions held by Mr. Felton led the "Argonaut" to say of him that he is thoroughly conversant with the subject, a belief probably shared by many who are themselves ignorant of it, and who will therefore accept his "statement of the facts" as reliable and perfectly conclusive.

There are, however, others, and they are not few in number, whose investigations of this question have proved to them that the facts connected therewith are diametrically opposed to those alleged by Mr. Felton, and who have consequently arrived at an entirely different conclusion.

Mr. Felton's plea is not new in itself, and it does not gain by his way of stating it, which is confused and often unintelligible. The line of argumentation followed is that now forced upon the special pleaders in vindication of these seizures, by the fact that the theory originally advanced, of Behring's Sea being by international law a closed sea, has been too thoroughly exploded to leave it available any longer. They therefore try to argue that if it is not a closed sea by international *law*, it is a closed sea by international *acquiescence!* And then, remembering the showman's hint that, though a leopard cannot change his spots, you can do it for him with a brush and a little paint, they set to work to manufacture corroborative evidence. By dint of judicious *suppressio veri* and *suggestio falsi*, they get up a semblance of proof, well calculated to impose upon the public, a good enough Morgan until after *exposure*. Meanwhile the one end, never lost sight of, is gained. The seizures go on, foreign competition is as least checked, and the Alaska Commercial Company is "protected" as far as possible.

In order that your readers may clearly understand the points at issue between the defenders of the seizures and those who condemn them, let me summarize these points.

The hypothesis of the defenders is, that in settling the controversy arising out of Russia's pretensions of 1821, a discrimination was made between Pacific Ocean and Behring's Sea; that while the high seas (all outside of the customary 3-mile shore belt) of the Pacific were declared free to all the contestants, the high seas of Behring's Sea were acknowledged to be under Russia's "exclusive dominion;" that this exclusive dominion was never denied nor questioned by any Power, was always maintained by Russia, and finally was made over by her to us, so far as it concerned our part of Behring's Sea; that consequently our title to such dominion is unimpeachable.

The argument of the opponents of seizures, on the other hand, is that there was no discrimination made between the Pacific and Behring's Sea, and that there was no call nor excuse for any, as they are identical in all that constitutes either an
346 open or a closed sea, the only two kinds of sea which international usage and law recognize; that the absence of the term "Behring's Sea" from all the documents is perfectly natural, because that name is of more modern origin than the date of those papers, and because the parties to the controversy followed the safe and well-established custom of using only the common nomenclature of the times, which did not include the name "Behring's Sea;" that all the waters of the present Behring's Sea were then, and now are, considered by all authorities on geography as belonging to, and forming part of, the Pacific Ocean; that consequently the stipulations of the Treaties of 1824 and 1825, declaring freedom of navigation and fishery in any part of the Pacific, apply to every part of Behring's Sea, and are binding on all the nations which signed these Treaties; that Russia never after the date of these Treaties asserted or claimed any jurisdiction over Behring's Sea, and never afterwards interfered with the fishing by the vessels of other nations in its waters; and last, but not least, that Russia *never ceded nor pretended to cede to us any sea or dominion of any kind over any sea whatsoever.*

The defenders of the seizures do not produce, or even allege that there exists, any direct documentary proof of the pretended discrimination between Pacific Ocean and Behring's Sea, or of any acknowledgment, in express terms, of Russia's exclusive dominion. Neither do they offer any reason for this discrimination—this making fish of one and fowl of the other,—nor do they show any object that was to be gained by us by this abandonment of our rights under international law to the free use of Behring's Sea. *Per contra*, the opponents do bring ample proof, drawn from official documents, in support of every point in their arguments, as will now be shown. A collection of these documents, in convenient form, has recently been published, as Sen. Ex. Doc. No. 106, 50, C. 2 S., from which I will quote. (In support of the assertion that the question of navigation and fishery was treated as concerning the whole of the Pacific, without discrimination between its different parts.)

(P. 210.) Secretary Adams' letter, July 22, 1823, to our Minister at St. Petersburgh, summarizes the Russian claim as extending to "an exclusive territorial jurisdiction from the 45th degree of north latitude, on the Adriatic coast, to the latitude of 51° north, on the western coast of the American Continent; and they assume the right of interdicting the navigation and the fishery of all other nations to the extent of 100 miles from the whole of that coast."

"The United States can admit *no part* of these claims."

(P. 214.) Our Minister at St. Petersburgh to Secretary Adams, April 19, 1824. Report on the Minutes of the Conference proceedings: "That I must now frankly tell them [the Russian Ministers] that my instructions required that I should obtain two points as necessary conditions to the third object contemplated by the project of Convention: (1) *the revocation*, either spontaneous or by Convention, *of the maritime provisions of the Ukase of September* 4 (16), 1821; (2) the adoption of the commercial principle (or something similar) agreed upon between the United States and Great Britain in their Convention of 1818, in relation to these coasts; (3) that, these preliminaries being settled, a territorial delimitation for settlements at 55° might be agreed upon."

(In support of the assertion that all the waters of the present Behring's Sea were, at the time of the Treaties and since, officially recognized as belonging to the Pacific.)

(P. 206.) Russian Minister at Washington to Secretary Adams, February 28, 1822: "I ought, in the last place, to request you to consider, sir, that the Russian possessions in *the Pacific Ocean* extend on the north-west coast of America, from Behring's Strait to the 51st degree of north latitude, and on the opposite side of Asia and the islands adjacent, from the same strait to the 45th degree."

(This includes every part of the present Behring's Sea.)

(P. 248.) Treaty of Cession, 20th June, 1867. Last clause of Article I, stating western limit of the cession: " . . . so as to pass midway between the Island of Attou and the Copper Island of the Komandorski couplet or group in the *North Pacific Ocean*. . . ."

(Attou lies in 52° 57′, and Copper Island in 54° 35′ to 54° 55′ north, or about 100 miles more northerly than the Aleutian Island of Attou, and there is no chain of islands between Copper Island and our coast-line from Behring's Strait to the south end of the Peninsula of Alaska, nothing to set off that portion of the Pacific in which Copper Island is thus officially stated to lie, from that portion which washes our coast.)

(In support of assertions concerning Treaty stipulations.)

(Pp. 220–221.) A summary of the Treaty of 1824:

Article I. It is agreed that in *any part* of the great ocean *commonly called* the *Pacific Ocean* or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in
347 fishing or in the power of resorting to the coasts upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles.

Article II forbids the resorting to the respective establishments without permission.

Article III forbids the forming of establishments by either party, north and south respectively, of 54° 40′ north.

Article IV permits, during a term of ten years, the frequenting by either party of the interior seas, &c., upon the coast mentioned in the preceding Article.

(In support of the assertion that Russia ceded to the United States no sea, and no dominion over any sea.)

(P. 247.) Treaty of Cession, 20th June, 1867:

Article 1. Russia agrees to cede "all the territory and dominion now possessed by his said Majesty *on the continent of America* and *in the adjacent islands*, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America . . . [the details are omited here as irrelevant, this line not touching Behring's Sea at any point]. The western limit within which the territories and dominions conveyed are contained passes through a point in Behring's Straits, on the parallel of 65° 30′ north latitude, at its intersection by the meridian which passes midway between the Islands of Krusenstern or Ignalook, and the Island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly south-west through Behring's Straits and Behring's Sea, so as to pass midway between the north-west point of the island of St. Lawrence and the south-east point of Cape Choukotski, to the meridian of 172° west longitude; thence from the intersection of that meridian in a south-westerly direction, so as to pass midway between the Island of Attou and the Copper Island of the Komandorski [*Kormandorski* is a misprint] couplet or group in the North Pacific Ocean, to the meridian of 193° west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian."

Article II. In the cession of territory and dominion made by the preceding Article "are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property." The rest of the provisions refer to churches and to public archives.

Article III refers to the rights of the inhabitants.

Article IV refers to the appointment of agents for the transfer of the territory and property ceded.

Article V refers to the exchange of ratification.

Article VI says . . . the cession of territory and dominion herein "made is hereby declared to be free and unencumbered by any reservations, privileges, franchises, grants, or possessions by any associated Companies, whether corporate or incorporate, Russian or any other, or by any parties, except merely private individual property-holders; and the cession hereby made conveys all the rights, franchises, and privileges now belonging to Russia in the *said* territory or dominion, and appurtenances thereto."

No sea or dominion over any sea is among the things enumerated as ceded. No dominion over an open sea like Behring's Sea could be claimed as a right ceded under Article VI, because Russia has limited these rights to such as belong to her, *in the said territory or dominion and appurtenances thereto*, and dominion over an open sea is not a *right* attaching to territory, nor is such a sea an *appurtenance* to territory.

Mr. Felton tells us that it had been understood that the waters of Behring's Sea and its "marine life were free to the 'fishermen of all nations *including ours*' [*sic*], there could have been no incentive on the part of our Government for its purchase at the price of 7,200,000 dollars. In any other view of the case, it would have been absurd. . . ."

That is, of course, a matter of opinion, and on it some may prefer the judgment of men like Secretary Seward and Senator Sumner to that of Mr. Felton. But what is sure is, that these gentlemen would have left nothing at loose ends. They were the prime movers on our side in the transaction, and if they had thought that our bargain "included exclusive dominion over Behring's Sea," they would have had express stipulations to that effect inserted in the Treaty, just as Secretary Seward is known to have insisted on the insertion of the clause in Article VI (cited above) that "the territory was free and unencumbered," &c.

Now let me say a few words in support of my charges against Mr. Felton and his fellow-advocates of the seizures of manufacture of evidence, of *suppressio veri*,
348 and *suggestio falsi*. I repeat that every allegation concerning important facts is more or less untrue, and every essential quotation more or less twisted and perverted. To expose all of these sins here is, of course, impossible, so I confine myself to a few examples.

Take the opening assertion in Mr. Felton's article:

"The title of the United States to Alaska and the Behring's Sea was acquired from Russia by the Treaty of Cession of 1868 [misprint for 1867], 'in which she ceded and conveyed all the rights, franchises, [and] privileges now belonging to Russia in the ceded territory or dominion, and appurtenances thereto;' the same being contained within the geographical limits herein set forth, to wit:" followed by the description of them, as quoted by me above. Here a straightforward and honest quotation of Article I of the Treaty would at once have exposed the fallacy of the above assertion as regards Behring's Sea, and so a little game of selecting and arranging suitable passages is resorted to. The most essential part of the particulars given in Article I, the enumeration of the territory and dominion ceded, is suppressed. For it is substituted something cut off from the end of Article VI, the general covenants of secondary importance, usual in conveyances, which can be correctly interpreted only by reference to a preceding enumeration, and then comes the rest of Article I, the description of the geographical limits. The effect aimed at, and probably attained in the case of most readers, is to hide the true import of Article I, the simple statement that everything ceded was included within certain geographical limits, and to create instead the false impression that everything embraced within these limits was ceded; to create the false impression that as a large part of Behring's Sea was situate within these limits, such part of this sea was consequently also ceded and conveyed.

In like manner Mr. Felton's mere reference to, without proper quotations from our protests against Russia's pretensions, destroys the emphasis, belittles and belies the scope of Secretary Adams' categorical and all-embracing, "can admit no part of these claims."

Again, Mr. Felton's assertion "that Russia, from her discovery of Behring's Sea down to the cession to the United States, has controlled the navigation of its waters and the taking of its marine life. To this end her navy has patrolled it, and, in pursuance of her laws, taken, confiscated, and burned marauding vessels; she has since and is now pursuing the same policy on her part of Behring's Sea," is simply a glaring untruth.

Mr. Felton does not, of course, cite any case of such confiscation, and none occurred; for since the Treaties of 1824 and 1825 Russia never interfered with foreign vessels fishing in those waters, though foreign whalers frequented them during the whole of the time referred to, and literally swarmed there by hundreds during the

tion, says Mr. Felton, and this is indisputable. It is this gentleman alone
duces ambiguity and even misrepresentation into the discussion, when he
o say: "It means that Russia will enforce her sovereignty over the western
ehring's Sea within her sea boundary-line." Certain phrases have certain
nd well-established meanings, are employed exclusively in such accepted
ion in official documents, and are always interpreted strictly in this sense.
pted sense of sea boundary-line, with reference to coasts and islands, is a
miles seaward from low-water mark on the shore, and there is consequently
nt for Mr. Felton's preposterous misinterpretation. Perusal of pp. 251 to
e official document above referred to (Sen. Ex. Doc., No. 106) would have
l Mr. Felton proof of the untruth of his assertion and of the falsity of his
ation. Only three cases of interference are there mentioned; none of them
acts done on the high sea, but all for acts within the 3-mile limit. Two of
ee seizures took place in the Russian part of Behring's Sea, and if Mr.
lton's hypothesis of a division between Russia and the United States of
clusive jurisdiction over this sea has ever been adopted by our Government,
der is how it could consistently take any official notice of an exercise of
isdiction by Russia that would be perfectly legitimate under said hypothesis.
elton's manner of arguing, his way of stating a proposition and drawing
es from it, offers a refreshing contrast to the stale rules of logic hitherto con-
as binding upon a writer. His method of geographical definition is also quite
nd I confess I have not been able to master it. Here is a specimen which is
beyond me: ". . . that they [Treaty of 1824 and other documents] all
erence to the coast and the waters of the North Pacific, between the 51st par-
north latitude and Mount St. Elias and east of the 141st meridian of longi-
Mount St. Elias is a good many miles inland, and this is the first instance
to me of an inland mountain being pressed into service as a terminal point of
and waters." Besides, this limitation of the application of the Treaty of
aves a very long coast-line of the Pacific, and unquestionably not of Behring's
z., that from 141° west to the south-west extremity of the Peninsula of Alaska
at 163° 30′ west unprovided for. Was there some kind of "acquiescence"
this long coast-line, too, and if so, what was acquiesced in?
passage, "Russia surrendered or abandoned her claim only to the control of
rth Pacific Ocean, and to the north-west coast south of latitude 54° north, yet
le to the Aleutian Islands, extending [title or islands? *R. R.*] as far south as
rth latitude and longitude 166° to 167° west, is not, and never has been, dis-
or invalidated," is another geographical conundrum as well as a puzzle in

closing sentence in Mr. Felton's article is as extraordinary as anything he has
ed in the way of assertion: "Congress had entire confidence in our title"—

public will not accept this testimony as proving "confidence" on the part of Congress. Considering that the House had actually to rescind its action, to abandon the position to which it had committed itself, the whole looked decidedly like a confession that the House felt "very shaky" indeed on the validity of the alleged title.

It recalls the story of the King who quarrelled over some point in a game of chess which he had the condescension to play with a subject of his, while a crowd of courtiers preserved a dead silence. When the contention was at its height, an officer of known skill at the game entered, to whom the King appealed for a decision, and who replied instanter: "Your Majesty is wrong!" "How can you tell when you have not even glanced at the board?" "Quite unnecessary! Would these gentlemen," pointing to the courtiers, "remain silent if there was a ghost of a chance to say anything in favour of your Majesty?" A claim in *our favour* and *against England*, which such ever-ready champions of everything anti-English as Messrs. Edmunds, Hoar, Frye, &c., refuse to support, must be indeed hopelessly weak.

However much one may find fault with what Mr. Felton does say in his article, it is, nevertheless, impossible not to regret that he left some things unsaid, that he found it impossible "to continue the history of the legislation of Congress on this subject, and ascertain upon what facts it based its late action, the necessity for such action, and to speculate upon its probable results. . . ." Light on all these points is certainly very much needed, and it is very much to be hoped that some Congressional Phœbus Apollo will furnish it to the public. It is indeed difficult to find or imagine any good reason for the new Act of the 2nd March last. It is superfluous, and even absurd, to make a statutory declaration that a law already enacted for a certain locality shall apply to it. The measures for its enforcement now *ordered* may be wise, but if they were to be confined to their legitimate sphere, they were quite within the President's authority before said Act. They had, in fact, been already taken by Mr. Cleveland's Administration, had then been carried out in regions beyond that sphere for two seasons, after which better counsel prevailed, and they were limited to our acknowledged jurisdiction. The new law contains nothing new as to the sphere in which the old law is to be enforced; on the contrary, the attempted extension of this region was distinctly abandoned. Congress in this case, as often before, shirked the responsibility, and confined itself to "egging on." Secretary Blaine's assertion, that he is merely enforcing an Act of Congress when he allows the capture of foreign sealers outside of the 3-mile shore limit, is not borne out by the provisions of the Act.

Apparently, Mr. Felton and his partizans are entirely unconscious of the fact that their hypothesis fairly bristles with absurdities. It presupposes that, in the settlement of a controversy seriously affecting established principles of international law, civilized Governments would deliberately stultify themselves to the extent of insisting upon these principles being strictly carried out in one part of the ocean, and of utterly ignoring them, at the same time, in the part immediately adjoining; of discriminating between seas that have not those geographical differences which international law makes the very *conditio sine quâ non* of discrimination, and of doing all this without any documentary record of their action, and without a word of explanation as to the reason for such an unprecedented performance. It presupposes that the two maritime nations *par excellence*, Great Britain and the United States, each more powerful on the ocean than Russia, would have surrendered to her their natural right to the free use of an open sea (expressly declared by Mr. Felton to have been known at the time as valuable), without struggle or remonstrance, without equivalent or cause! And all this idiotic travesty of patriotism, statesmanship, and diplomacy, is imputed to men of the calibre of John Quincy Adams, George Canning, and Count Nesselrode. This sorry figment of crazy suppositions is palmed off for truth, in the face of documentary proof of a natural, a reasonable, and a consistent argument to the contrary.

We are urged to persist in an indefensible and dishonourable policy when there is every evidence that a legitimate and honourable course—that of international conference and agreement—would bring about every result we profess to be aiming at, and bring it about more quickly and more thoroughly than could be hoped for by any other means.

The ultimate outcome of such persistence is plain; it may be delayed, but it cannot be escaped from eventually. And finally it must not be overlooked that, at the best, even a triumphant maintenance against Great Britain of Mr. Felton's hypothesis would not settle the question in our favour as against the rest of the world. Acquiescence being the basis of that hypothesis, it would be binding only upon those nations that had acquiesced. The others remain free to exercise their natural rights in Behring's Sea, and would in time undoubtedly insist upon doing so, without our having a chance of preventing them under international law.

(Signed) ROBERT RAYNER.

No. 246.

Sir. J. Pauncefote to the Marquis of Salisbury.—(Received November 12.)

WASHINGTON, *November 1, 1889.*

MY LORD: I lost no time, after my arrival here on the 15th ultimo, in seeking an interview with Mr. Blaine on the Behring's Sea question. He was much engaged at the time with the Maritime Conference, but he ultimately appointed Thursday, the 24th, for a preliminary conversation on the subject.

We had a great deal of friendly discussion, in the course of which he stated that the seizures of the Canadian seal-fishing vessels had been effected by the Treasury Department, which is charged with the protection and collection of the revenue (including that derived from the Alaska Company), and the measure had been resorted to under the belief that it was warranted by the Act of Congress and the Proclamation of the President. In this view, the Department had been confirmed by the Judgment of the District Court of Alaska.

I observed that this appeared like an assertion of the *mare clausum* doctrine, which I could hardly believe would be revived at the present day by his Government or any other; to which he replied that his Government had not officially asserted such a claim, and therefore it was unnecessary to discuss it. As a matter of fact, there had been no interference with any Canadian vessels in Behring's Sea except such as were found engaged in the capture and destruction of fur-
351 seals. But his Government claim the exclusive right of seal-fishery, which the United States, and Russia before them, had practically enjoyed for generations without any attempt at interference from any other country. The fur-seal was a species most valuable to mankind, and the Behring's Sea was its last stronghold. The United States had bought the islands in that sea, to which these creatures periodically resort to lay their young, and now Canadian fishermen step in and slaughter the seals on their passage to the islands, without taking heed of the warnings given by Canadian officials themselves, that the result must inevitably be the extermination of the species. This was an abuse, not only reprehensible in itself, and opposed to the interests of mankind, but an infraction of the rights of the United States. It inflicted, moreover, a serious injury on a neighbouring and friendly State, by depriving it of the fruits of an industry on which vast sums of money had been expended, and which had long been pursued exclusively, and for the general benefit. The case was so strong as to necessitate measures of self-defence for the vindication of the rights of the United States and the protection of this valuable fishery from destruction.

I replied that, as regarded the question of right, I could not admit that the seizure of the Canadian vessels was justified under the terms of the Act of Congress or of the Proclamation of the President. Municipal legislation could have no operation against foreign vessels beyond territorial waters. A claim of exclusive fishery on the high seas was opposed to international law, and no such right could be acquired by prescription. Mr. Blaine observed that he thought Great Britain enjoyed such a right in relation to pearl fisheries in some parts of the world. I said I was not aware of any such case. As regarded the question of fact, namely, the danger of extermination of the fur-seal species and the necessity for a "close season," there was unfortunately

a conflict of opinion. But if, upon a further and more complete examination of the evidence, Her Majesty's Government should come to the conclusion that a "close season" is really necessary, and if an agreement should be arrived at on the subject, all differences on questions of legal right would *ipso facto* disappear.

Mr. Blaine expressed his readiness to proceed to such an inquiry, adding that he would be prepared to establish from Canadian evidence alone the absolute necessity for a "close season;" but he strongly insisted that the inquiry should take place here, and be entirely of a diplomatic character. It was suggested, in conversation, that the tripartite negotiation commenced in London between Great Britain, the United States, and Russia, which, from various causes, had been suspended, might be resumed in Washington.

Mr. Blaine expressed his concurrence, but he said he did not wish to originate such a proposal.

I stated that if such an arrangement were agreed to, I should require the assistance of experts from Canada, and it should be understood that the results of the inquiry should, if desired, be made public to the world as a justification of the adoption of a "close season," and an inducement to all other nations to observe it. Also, that there should be an assurance against any more seizures, and an understanding as to compensation to the owners of the vessels and property seized.

Mr. Blaine replied that if we did not settle the question before next April he should despair of our ever doing so, and that until that date, when the fishing season reopened, no seizures would take place, for there could be no object in them.

As regards compensation, if an agreement should be arrived at, he felt sure that his Government would not wish that private individuals who had acted *bona fide* in the belief that they were exercising their lawful rights, should be the victims of a grave dispute between two great countries, which had happily been adjusted. He was not without hope, therefore, that the wishes I had expressed might be met, and that all might be arranged in a manner which should involve no humiliation on either side.

His tone was most friendly throughout, and he manifested a strong desire to let all questions of legal right and international law disappear in an agreement for a close season, which he believes to be urgently called for in the common interest.

It only now remains for me to solicit your Lordship's instructions in regard to the suggestion of resuming in Washington the tripartite negotiation, with a view to arriving, if possible, at such a solution as is proposed by Mr. Blaine.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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352 **No. 247.**

Foreign Office to Sir C. Lampson and Co.

FOREIGN OFFICE, *November 13, 1889.*

GENTLEMEN: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 6th instant, with its inclosure, again calling attention to the effects which are to be apprehended from

the indiscriminate slaughter of female seals in the waters of Behring's Sea, and I am to say that your representations on the subject will receive careful attention.

Lord Salisbury will be glad to receive any statistical evidence which you may be able to furnish as to the extent to which the number and quality of the catch of male seals has been affected of late years by the increased slaughter of female seals in the open sea, and any other information which might be of assistance in considering the remedial measures which it may be desirable to adopt.

His Lordship presumes that you would have no objection to the eventual publication of your letter under reply, and of any subsequent communications not marked "Confidential."

I have, &c.

(Signed) T. H. SANDERSON.

No. 248.

Sir C. Lampson and Co. to Foreign Office.—(Received November 15.)

64, QUEEN STREET, *London, November 14, 1889.*

DEAR SIR: We have to acknowledge receipt of your valued favour of the 13th instant, and beg to thank you for having taken the matter into consideration.

We are now collecting all the information we can with reference to the details Lord Salisbury is anxious to obtain, and when we have completed our Statement, will forward it to you.

We are quite willing to have any of our letters used as Lord Salisbury may see fit.

Yours, &c.

(Signed) C. M. LAMPSON AND CO.

No. 249.

Colonial Office to Foreign Office.—(Received December 1.)

DOWNING STREET, *November 30, 1889.*

SIR: With reference to the letter from this Department of the 9th August last, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Deputy Governor of Canada, inclosing an important Minute of the Dominion Privy Council on the subject of the proposed close time for seals in Behring's Sea.

I am to request that the inclosures in Sir W. Ritchie's despatch, which are sent in original, may be returned after perusal.

I am, &c.

(Signed) JOHN BRAMSTON.

353 [Inclosure 1 in No. 249.]

Deputy-Governor Sir W. Ritchie to Lord Knutsford.

OTTAWA, *November 11, 1889.*

MY LORD: With reference to Lord Stanley of Preston's confidential despatch of the 3rd August, 1888, in which was inclosed a copy of a Minute of Council of the 14th July of that year, protesting against the proposal made by the United States Government for the establishment of a close season for seals in Behring's Sea, I have the honour to forward herewith, for your Lordship's information, a copy of an approved Report of a Committee of the Privy Council, to which are appended certain declarations and statements tending to support the contentions advanced by the Dominion Government in the above-mentioned Minute.

I have, &c.

(Signed) W. J. RITCHIE.

[Inclosure 2 in No. 249.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, November 4, 1889.

On a Report dated the 26th October, 1889, from the Minister of Marine and Fisheries, stating that he has recently received from parties interested in the fur-sealing industry of the Behring's Sea, further information relative to seal-hunting.

The Minister desires attention to the Minute of Council dated the 14th July, 1888, made on a Report of the then Minister of Marine and Fisheries upon a proposal from Mr. Secretary Bayard, for the establishment of a close season for seals in the Behring's Sea, which was a proposition to agree to enforcing a close season from the 15th April to the 1st November in each year.

The Minute of Council dealt very fully with this and pointed out:

That the United States Minister, as reported in the despatch from Lord Knutsford, of the 8th March, 1888, then under consideration, had asserted that there were both close and open seasons for killing seals in the Behring's Sea, and that the United States Government was endeavouring to enforce the observance of these seasons by all nationalities alike, and, consequently, that during the open season seals could be pursued without fear of molestation, whereas, in fact, the killing of seals, except by the Alaska Commercial Company, lessees of the Seal Islands, is entirely prohibited by the laws of the United States, and this law was then being enforced against citizens of the United States and those of Canada.

That the Alaska Commercial Company, under the terms of their lease, had a monopoly of the industry, and killed 100,000 seals annually, for which monopoly they paid paid yearly into the Treasury of the United States over 300,000 dollars.

The Minute of Council above referred to went on to show that no pressing necessity existed for the establishment of such a close season, since careful measurement of the "Rookeries" on St. Paul and St. George Islands showed 6,337,750 seals, whilst only 100,000 were annually killed, and the United States Special Agent for Alaska in 1887, reported the seals on the increase.

That as the seals arrive in May and leave about the end of October, a close season from the 1st April to the 16th November, as proposed by the Honourable Mr. Bayard, would practically prohibit all fishing except by the Alaska Commercial Company, who could kill on the only places where the seals "haul out" during June, July, September, and October, four of the months of the proposed close season, thus establishing their monopoly more effectually.

That while under Mr. Bayard's proposition this area would be closed against all operations except those of their own sealers on the Pribyloff Islands, other sealing areas in America and Asia would be open to her as before.

That the Alaska Commercial Company has a leasehold from the Russian Government which does not fall under the proposed area.

That while the arrangement would benefit Russia and the United States, Canada would lose the whole sealing industry.

354 The Minister further observes that this Minute of Council called attention to the opinion of experienced sealers, who aver that by the present methods of hunting with gun and spear not more than one in ten of the seals struck is lost, and that it is not believed that these methods are so destructive as alleged.

In the said Minute of Council it is claimed that the sole object of the United States was to establish a monopoly in the manner and locality of killing seals in favour of such United States citizens who might from time to time enjoy the privilege of *sealing on* Pribyloff Islands.

The Minister submits the appended declarations and statements in support of the views expressed in the Minute above referred to: they are as follows:

Appendix No. 1. Statement prepared by practical seal-hunters.

Appendix No. 2. Statement prepared by A. R. Milne, Esq., giving a history of the sealing industry as pursued by British subjects in the Behring's Sea.

Appendix No. 3. Solemn declaration of Carl A. Lundburg on the slaughter of about 10,000 seals at Robin Island by the crew of the schooner "Leon," a watch-vessel of the Alaska Commercial Company.

The Minister states that it will be seen that the first Appendix, in which the different hunters describe their operations in detail, fully bears out the position taken in the Minute of Council of the 14th July, 1888, that the destructive nature of the modes of killing seals by spears and fire-arms has been greatly exaggerated by the United States authorities, a very small percentage of loss occurring. Also that the operations of the Canadian sealers in the Behring's Sea are of necessity during the months proposed by the Honourable Mr. Bayard as a close season.

The Minister desires to invite particular attention to the fact that, while female seals with pup are taken to some extent along the coasts approaching the Behring's Sea, such instances are of rare occurrence in the sea itself.

Appendix No. 2 treats altogether of the history and extent of the Canadian sealing interest in the North Pacific Ocean and Behring's Sea, and concludes by showing that, as the seals travel singly and in pairs, not in droves or numbers as has been claimed, there is no opportunity for the indiscriminate slaughter alleged. The percentage of seals wounded or killed and not secured is placed at 6 per cent.

The Minister of Marine and Fisheries is of opinion that the action described in Appendix No. 3, of the servants of the Alaska Commercial Company at Robin Island, under lease to them from Russia, in wantonly and maliciously slaughtering on their rookeries 10,000 seals at one time, principally cows and pups, and destroying their skins for the avowed purpose of insuring the failure of other sealers, is but another argument against securing a monopoly of the seal-fishing interest in the North Pacific Ocean for the Alaska Commercial Company, and while this one act has been more destructive than the combined operations of the other sealers in the Behring's Sea, it renders altogether erroneous the interference of the United States authorities on the plea of protection with the legitimate pursuits of sealers in the open sea.

The Committee concurring in the above Report recommend that your Excellency be moved to forward a copy hereof to the Right Honourable the Secretary of State for the Colonies, and that a copy be also forwarded to the High Commissioner for Canada for his information.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

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35 APPENDIX 1.

STATEMENTS OF PRACTICAL HUNTERS.

James Wilson.

I was carpenter on board the sealing-schooner "Triumph" on her voyage this year. One of the hunters was drowned just before entering Behring's Sea, and I took his place. I was out hunting seals about a week, but the weather was bad, and I got only twenty-three seals. I had had no experience. I used a breech-loading shot-gun, and shot seals at a range of from 10 to 15 yards. I lost one seal through the carelessness of the boat hands running the boat over the seal, which sank directly under the boat.

Most of seals lost by hunters are shot at long ranges with the rifle. One hunter on the "Triumph" this year got over sixty seals and only lost one. I never saw a cow seal with her young beside her. Out of the twenty-three I got, five or six were cows carrying their young.

(Signed) JAMES WILSON.

VICTORIA, BRITISH COLUMBIA, *August 9, 1889.*

William Fewings.

I have been three years hunting seals on the Pacific Coast and in Behring's Sea. In 1887 I was on board the sealing-schooner "Favourite," in 1888 on the "Viva," and in 1889 on board the "Triumph." In each year the vessel I was on entered the Behring's Sea early in July, and left the sea the latter part of August or early in

September, except this year, when the "Triumph" left the sea on the 11th July, under threat of seizure, after searched by the United States cutter "Rush." In 1887 the hunters I was with were partly Indians and partly whites. In the two last years the hunters were all whites, using shot-guns and rifles. The rifles were used by the more experienced hunters and better shots for long-range shooting, up to 100 yards, but few hunters attempted that range. The general range for rifles is not over fifty yards, and most shots are made at a less range.

A few hunters used the rifle for all distances. I use either rifle or shot-gun, according to the distance and position of the seal and the condition of the water.

My first year I got about 400 seals. In getting this number, I failed to capture about twenty-five shot at, or killed, or wounded, but which escaped. In my second year I got over 500 and lost about thirty. This year I got 140, and lost only one. I have frequently shot from two to five seal in a bunch, and got them all. One day in 1887 I got two bunches of five each and another of four, and got the whole fourteen.

Indian hunters use spears, and either get every seal they throw at or it escapes unhurt, or but slightly wounded. Indians, it can be safely said, get every seal they kill.

Oscar Scarr, a hunter on the "Viva" in 1888, got over 600 seals, and lost only about twenty. The average number lost by white hunters does not exceed six in 100, and by the Indians not six in 1,000. I have never shot nor have I ever seen a female seal with a young one beside or with her. It is very seldom a female is killed in Behring's Sea, carrying her young with her, and out of 1,000 killed on the coast earlier in the season less than one-third are females carrying their young.

(Signed) WM. FEWINGS.

VICTORIA, BRITISH COLUMBIA, *August 9, 1889.*

Captain J. D. Warren.

I am a master mariner, and have been actively engaged in the deep-sea sealing business for twenty years. I have owned and commanded sealing-vessels on voyages along the Pacific Coast from 47° or 48° north latitude to 56° or 57° north latitude within Behring's Sea. I have generally employed Indians, except in 1886 and 1887, the last years I was out, when I had white hunters as well. White hunters use rifles and shot-guns entirely, Indian hunters use spears. Bullets weighing from 300 to 400 grains are used with rifles, and ordinary buck-shot with guns. Both rifles and shot-guns are breech-loading, and of the best make. Seals are approached by the hunters in boats, to 10 or 15 yards, lying generally asleep on the water. Frequently seals are taken alive when asleep, especially by the Indians, who, in their canoes, get within from a spear's length (14 or 15 feet) to 30 feet before they throw. Indians rarely lose a seal they strike, and if one escapes it is always but slightly wounded. Of seals killed by white hunters, probably not over 10 per cent. are killed with rifle, which is generally used for only a long range.

Sealers divide the seals for hunting purposes into two classes, "sleepers" and "feeders;" or "travellers sleepers" are almost always shot at from 10 to 15 yards range, and are seldom lost. "Feeders" are shot at just as their heads emerge from the water. From this fact the range is always from a few feet to 100 yards, though few are fired at that distance. Hunters use a "gaff," a pole about 10 or 12 feet long, with one to three hooks upon it, with which they catch the seal and bring it into the boat. If the seal sinks, the "gaff" is run down, and the seal hooked up. The British sealing-vessels employ more Indian than white hunters. My experience with white hunters is not so extensive as with Indians, but from what I have seen while engaged in sealing I can say that not over six in every 100 seals killed by white hunters are lost or escape.

Experienced hunters seldom lose a seal; the losses are chiefly made by inexperienced hunters, only a few of whom are employed, for the reason that as hunters are paid so much a skin, inferior men cannot make good wages. I have noticed
356 no diminution in the number of seals during the twenty years I have been in the business, but if any change at all, an increase. Of the seals taken along the coast about one-half are females, and of the females not more than one-half are with young. In Behring's Sea not one in 100 of those taken by the hunters are females with young; because as soon as the females carrying their young get into the sea they go to breeding islands or rookeries, and in a few days their young are born. The cows remain with their young until they are quite able to take care of themselves. I do not think that out of the seals taken by Indian and white hunters more than 30 per cent. are females actually breeding or capable of breeding.

"Old bulls," "bachelors," "two-year-old pups," and "Barre cows" make up the great majority. Cows actually breeding are very watchful, and while on the voyage northward are ever on the alert, so they are difficult to take. On the other hand, the other classes above named make up the great class of "sleepers" from which fully 90 per cent. of the whole catch of hunters is derived. I never saw or heard of a "cow" having her young beside her in the water, either on the coast or in Behring's Sea.

(Signed) J. D. WARREN.

VICTORIA, BRITISH COLUMBIA, *August 10, 1889.*

Captain Sieward.

I have been a master sealer for two years. In 1888 I commanded the "Araunah," and in 1889 the "Walter L. Rich," and during both years sealed along the coast from off Point Northward to Behring's Sea. In 1888 I had Indian hunters, and this year white hunters. The Indians lose very few seals, for if the spear strike the seal is got, and if the spear misses the seal of course escapes unhurt. The white hunters use rifles and shot-guns, the latter much more than the former. Rifles are used only by good shots, and then at only long range. The seals lost by white hunters after being shot or wounded do not on the lower coast exceed six in 100, and on the Alaska coast and in Behring's Sea not over four in 100.

On sailing I generally take 10 per cent. additional ammunition for waste shot, that is, if calculating on a catch of 3,000 seals, I would take ammunition for 3,300 shots. That was double the excess the hunters would consider necessary, and I never knew that percentage of waste shot to be used. I never saw a female seal with her young beside her in the water. Out of a catch of 1,423 seals this year, I had only fifty-five seals under 2 years old, *i. e.*, between 1 and 2 years old.

When at Ounalaska this year, I learned that the Alaska Commercial Company last year fitted out two small schooners belonging to private parties with large deep nets several hundred fathoms long, which were set across the passes leading from Behring's Sea for the purpose of catching young seals. One of these schooners got 700 of these young seals, about 4 months old, and sold them to the Alaska Commercial Company at 2 dol. 50 c. apiece.

A schooner, the "Spencer F. Baird," 10 or 12 tons, was then at Ounalaska fitting up to go to Akoutan Pass for the same purpose this fall. The law forbids the killing of all fur-bearing animals in Alaskan waters by any hunters except the natives, yet such is done every year at Kodiak, Sanaka, and the Aleutian Islands by white hunters fitted out by the Alaskan Commercial Company, under the agreement that the furs must be sold to the Company.

(Signed) H. F. SIEWARD,
Master, American schooner "Walter L. Rich."

VICTORIA, BRITISH COLUMBIA, *August 10, 1889.*

Walter House.

I was a hunter on the schooner "Walter L. Rich," on her sealing voyage this year. It was my first year on the Pacific coast, but I had had seven years' experience on the Newfoundland coast catching hair-seals. This year on the "Rich" I got 185 seals and lost five, which sank before I reached them. I used a shot-gun. The hunters on the "Rich" lost about the same proportion, some a few more, some less. I never saw a cow seal in the water with her young beside her or near her, nor have I ever heard of such a case.

(Signed) WALTER HOUSE.

VICTORIA, BRITISH COLUMBIA, *August 10, 1889.*

Memorandum.

ESTIMATE of the Amount paid for Wages, &c., of the Victoria Sealing Fleet, and the probable Returns.

Wages of crew and hunters, per vessel	$7,000
Insurance premium on 8,000 dollars, at 7 per cent	560
Provisions, salt, ammunition, &c	3,000
Total per vessel	10,560
For twenty vessels employed	211,200

An average catch per vessel at, say	2,000 skins.
Value per skin, 7 dol. 50 c	15,000 dollars.
Value for twenty vessels	300,000 "

357 Two thousand skins is a low estimate per vessel, and were it not for the interference of the United States cutters in Behring's Sea, the catch per vessel would average quite 3,000 skins.

Captain William O'Leary.

I am a master mariner, and have been seal-hunting on the Pacific coast four years, three of which I was in Behring's Sea as well. One year I had Indian hunters only, and the three years I had white hunters only—all on the schooner "Pathfinder." My experience with Indian hunters is that they lose none—at most a few—of the seals they spear. The spears are "bearded," some with one, some with two beards, and once the seal is struck, capture is certain.

White hunters use shot-guns and rifles, according to distance and state of water. On smooth water and at long ranges the rifle is generally used, but the majority of hunters use the shot-gun, and the great majority of seals are shot with guns.

The number of seals lost by white hunters does not exceed six in 100, and many hunters lose much less than that number. About half of the seals taken along the coast are cows, and perhaps two-thirds of the cows are with young. Putting a vessel's coast catch at 400, from 150 to 175 might be cows with young. In Behring's Sea the average of cows with young killed will not average one in 100, for the reason that as soon as the cows reach the sea they go to the breeding islands where their young are born.

I never saw cows in the water with their young with them. I do not think there is any decrease in the number of seal entering Behring's Sea. I never saw so many seal along the coast as there were this year, and in Behring's Sea they were more numerous than I ever saw before. This year I shot forty-four seals and lost one.

(Signed) WM. O'LEARY.

VICTORIA, BRITISH COLUMBIA, *September 12, 1889.*

Frederick Gilbert.

I am a seal hunter. I have been four years on board sealing-vessels, one year I was a boat rower, and three years a hunter. I have always been with white hunters, and have used the shot-gun and rifle for shooting seals.

In 1887 I got 518 seals and lost 14; in 1888 I got 244 and lost 5; in 1889 I got 454 and lost 16; or in the three years I got 1,216 seals, and lost 35, or 2¼ per cent. I never shot or saw pups with the cows in the water, nor have I ever heard of such a case. Some hunters lose a few more than I do, but the most unlucky hunters I have met with did not lose twice as many.

(Signed) FRED. GILBERT.

VICTORIA, BRITISH COLUMBIA, *September 12, 1889.*

George Howe.

My first year's sealing, 1886, was on board the "Theresa" from San Francisco to Victoria. We left San Francisco on the 20th January, and arrived at Victoria on the 7th April. I got 159 seals, of which I lost about 7. I used a shot-gun principally, the rifle only for long range shooting, say, from 30 to 60 yards. At Victoria I left the "Theresa" and joined the "Pathfinder." The "Pathfinder" left Victoria on the 4th May for Behring's Sea, and that trip I got 442 seals and lost about 20. In 1887 I joined the "Penelope," and left Victoria on the third February. I got 618 seals during the season and lost 31. In 1888 I did not go sealing, but in 1889 I was engaged on the schooner "Viva;" we left Victoria on the 19th January, and I got 734 seals during the season and lost 37. I never saw a young pup alongside its cow in the water.

About one-third of the seals taken on the coasts are cows with pup or capable of being with pup. In Behring's Sea I got four cows with pups in them.

(Signed) GEORGE HOWE.

Thomas Howe.

In 1886, on board the "Theresa" and "Pathfinder," I got for the season 397 seals, and lost about 20. In 1887, on the schooner "Penelope," I got 510 and lost about 30. In 1888, on the "Lily Lad," I got 316 and lost 12. In 1889, on board the "Viva," I got 587 and lost 27.

(Signed) THOMAS HOWE.

Albert J. Bertram.

This was my first year hunting seals. I went out on the "Annie C. Moore." We left Victoria on the 25th January. I got during the season 320 seals. I use a shotgun principally. On the coast I got about 25 to 30 females with young in them, and in Behring's Sea I got about 6 or 7. I never saw a cow with her pup alongside of her in the water. I lost 21 seals that sank before I could reach them.

(Signed) A. J. BERTRAM.

Statement by Mr. Milne.

With regard to the early history of the sealing industry in British Columbia, it is well known that, owing to the sparse Settlements on the west coast of Vancouver and Queen Charlotte Islands, the taking of seals and the hunting of the sea otter was followed only by our Indian population, who pursued this industry in their own primitive manner, that is, by using the canoe and spear, and seldom venturing beyond sight of land. Their success was only known to the traders who had stores or stations, or trading schooners usually visiting the west coast during that season; the white population up to later years being chiefly engaged in other occupations. Sealing and deep-sea fishing did not seem to attract much attention. The few seals caught by the Indians adjacent to the coast was not considered sufficient inducement to our seamen, and also the habits of the seal, their regular yearly migration from Behring's Sea, and their long journey and return following the food fish, were all matters not full known or understood by our people. At all events, it does not appear that that knowledge was possessed of the seal life by our hunters, presented any extra inducement to them to follow this hazardous occupation.

Up to the year 1865–66 the sealing industry remained in the hands of the west coast Indians; but in the year 1866 the schooner "Kate," of Victoria, British Columbia, in charge of Dutch Harry and Ogilvie, left Victoria on a sealing and trading venture to the North Pacific and Behring's Sea. The success of the venture is unknown. It is said that this voyage was more for trading than seal hunting, and as expeditions of the former kind were plentiful at that time, the United States having about that time acquired possession of Alaska. It is now generally believed that they did not enter Behring's Sea for the purpose of sealing. At all events, the parties are now dead, and no authentic record can be found as to their success (if any) as a sealing voyage. After that time some few years appear to have elapsed before the sealing business was much noted, it being attractive to only a few traders engaged on the west coast in the usual barter and exchange with Indians.

The pioneers of the sealing industry, namely, James D. Warren, Hugh McKay, and William Spring (of whom the first mentioned only survives to impart the early history of the now important industry) reaped the reward of toil, and have retired to enjoy the fruits of their labour.

About the years 1878–79 the schooners belonging to the port of Victoria, British Columbia, began to extend their voyages seawards, and the migrations of the seals became better understood. Schooners cruizing southerly in the early spring months would meet the returning seals, bound northward. At this time the following schooners engaged in this traffic: "Thornton," owned by Captain J. D. Warren; "Anna Beck," owned by Captain J. D. Warren; "Favorite," owned by Captain Hugh McKay; "Onward," owned by Captain Hugh McKay.

In the year 1880 the schooner "Mary Ellen," a vessel 63 tons, was purchased by William Spring, and added to the sealing fleet at Victoria; and in the years 1881–82 auxiliary steam power was added to the "Anna Beck" and "Thornton," and several new vessels were built. The sealing industry at this time was considered in a fairly prosperous condition.

In the year 1883, the American schooner "San Diego," of San Francisco, of which Daniel McLean was master, his brother Alexander McLean being mate (both Nova Scotians), fitted out in San Francisco for the North Pacific and Behring's Sea on a walrussing and sealing voyage. With a crew of thirteen men they hunted along the west coast of California and British Columbia, starting about the 1st June, 1883.

During the voyage, which lasted till the end of August, they spoke no vessel or Revenue-cutter, nor had any communication with any one. They returned to Victoria after a successful voyage.

The following vessels were engaged on the west coast as sealers in the years 1882–83, but which did not enter Behring's Sea. All were fairly successful:

Schooners:	Tons.
"Favorite"	80
"Alfred Adams"	60 (69)
"Anna Beck"	40
"Dolphin"	60
"Grace"	77
"Onward"	35
"Thornton"	29
"W. P. Sayward"	60
"Black Diamond"	82

In the year 1884 the schooner "Mary Ellen," of Victoria, British Columbia, Daniel McLean master, fitted out at San Francisco with a crew of sixteen men to hunt seals along the west coast, and entered Behring's Sea about the 15th June and left about the end of August of the same year. The voyage was satisfactory to owners and crew. They prosecuted their legitimate and peaceful voyage to the high seas without any interference from any one.

In the same year the schooners "Favorite," "Anna Beck," "Alfred Adams," "Dolphin," "Grace," "Onward," "Thornton," "W. P. Sayward," and "Black Diamond," were all engaged in the sealing industry in the North Pacific.

In the year 1885—considered a prosperous one for sealers—the "Mary Ellen" and "Favorite," of Victoria, having entered Behring's Sea during June and leaving about the end of August, and the other schooners, as per list attached hereto, hunted in the North Pacific, but not entering Behring's Sea.

359 A number of vessels were added to the fleet in the following year (1886), and the enterprising firm, Carne and Munsie, brought around Cape Horn the schooner "Pathfinder." This latter led to some immigration from eastern provinces of the hardy class of seamen so well adapted to the sealing industry. All the vessels clearing from Victoria, British Columbia, entered Behring's Sea with the exception of the schooners "Active" and "Rustler," lost off Vancouver's Island.

The same year (1886) is also remarkable for the seizures of the "Carolina," "Onward," and "Thornton," the attending circumstances of which is now a matter of history. These vessels, fitted out at Victoria for sealing in the waters of the North Pacific Ocean and Behring's Sea, and at the time of seizure (1st and 2nd August, 1886), were about 70 miles from the nearest land.

The United States Revenue-cutter took them to Ounalaska. The crews of the "Carolina" and "Thornton," with the exception of the captain and one man detained on board, were sent to San Francisco, nearly 1,000 miles from home, and turned adrift to beg their bread, and by appealing to the charity of the humane to find their way back to their homes on Vancouver's Island. The crew of the "Onward" was kept at Ounalaska. The master and mate of the "Thornton" were brought to trial before a Judge named Dawson, in the United States District Court at Sitka; and if half the stories that are told are true as to the manner in which Courts are conducted in Alaska, we cannot be surprised at the verdict. The trial was a farce on justice, where international law or comity had no consideration. "The Britisher must suffer," and he was found guilty accordingly. The master of the "Thornton" was sentenced to thirty days' imprisonment and a fine of 500 dollars; the mate to thirty days' imprisonment and a fine of 300 dollars. The master and mates of the "Onward," as also the officers of the "Carolina," were likewise mulcted of similar penalties. The master of the latter vessel, one James Ogilvie, an old man and a pioneer of British Columbia, well thought of by owners and crews sailing from his port, of Victoria, after suffering harsh and inhuman treatment at the hands of the servants of the mighty Republic which blatantly proclaims its love for the right, was suffered to wander into wood, where he died from want and exposure.

The other masters and mates, after remaining in prison for several months, were released by order of the Governor of Alaska upon his being besought by the inhabitants of Sitka in the interests of humanity. They were turned out of confinement literally destitute, without food or shelter, and compelled to find their way back as best they might to their homes 1,500 miles distant, reached only by a long and costly voyage, or by the friendly help of the Indian and a canoe over a tempestuous wintry ocean.

The story of poor Ogilvie, the taunts of an unscrupulous Judge, characterizing them as pirates and robbers, the subsequent imprisonment in a foul Alaskan dungeon (fit only for a savage Aleut), will long be told as a travesty on the humane acts of a *friendly* Government.

The schooners have since lain on the beach at Ounalaska, worm-eaten and worthless. In 1887 the Government of the United States concluded to give these vessels up, and in a letter from Mr. Bayard to Sir L. West, dated the 11th October, 1887, the following extract appears:

"In the meantime, in acknowledging your note, I take occasion to state my impression that if the three vessels seized and ordered to be released have not been re-possessed by their owners, it is not because of any hindrance on the part of any official of this Government or failure to obey the order for release, but probably because of the remoteness of the locality (Ounalaska) where they were taken after arrest for adjudication, and the proceedings having been *in rem*, the owners have not seen proper to proceed to Alaska to re-possess themselves of the property in question."

Again, on the 13th October of the same year we find the following from Mr. Bayard to Sir L. West:

"DEPARTMENT OF STATE, *Washington, October 13, 1887.*

"SIR: Continuing my reply to your note of the 29th ultimo inquiring the reason for the delay in complying with the order issued in January last for the release of the British vessels seized last year in Behring's Sea, I beg leave to inform you that I have this day received a communication from my colleague, the Attorney-General, informing me that his telegram to the United States Marshal at Sitka of the 26th January last, ordering the release of the British schooners "Onward," "Caroline," and "Thornton," owing to some misconception and mistake on the part of the official to whom it had been addressed, had not been acted upon. A renewed order has gone forward for their release, as had been distinctly directed last January, and which I had no reason to doubt had been promptly obeyed.

(Signed) "T. F. BAYARD."

From the foregoing it naturally would be believed by all reasonable people that the Secretary of the United States would have had due respect for the proprieties of international comity, and see that his order would be carried into effect before the close of the year 1887. Such was not the case, whatever intervened in this diplomatic shuffle. It did not materialize before the 1st November, 1888, and not until the 10th November of that year did Messrs. Carne and Munsie receive the following:

"DISTRICT OF ALASKA, UNITED STATES MARSHAL'S OFFICE,
"Sitka, November 1, 1888.

"SIR: You are hereby authorized and directed to deliver to the rightful owner, Messrs. Munsie and Co., Victoria, British Columbia, the seized schooner "Caroline," of Victoria, British Columbia, her tackle, apparel, and furniture, as she now lies in the Harbour of Ounalaska.

(Signed) "BARTON ATKINS,
"United States Marshal.

"E. H. WALL, Esq.,
"United States Deputy Collector of Customs, Ounalaska, Alaska."

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360 "DISTRICT OF ALASKA, UNITED STATES MARSHAL'S OFFICE,
"Sitka, November 1, 1888.

"GENTLEMEN: I have the honour to inform you that I have received from the honourable Attorney-General of the United States orders to release to the rightful owners the schooner "Caroline," her tackle, apparel, and furniture, as she now lies at the Harbour of Ounalaska, in the district of Alaska. The order on the Deputy Collector of Customs at Ounalaska to deliver to you the property is herewith inclosed.

"Very respectfully,

(Signed) "BARTON ATKINS,
"United States Marshal.

"Messrs. MUNSIE AND CO.,
"Victoria, British Columbia."

In the year 1887 the vessels enumerated on list on p. 178 entered Behring's Sea after finishing the spring season. The names of the schooners and dates of the seizure, together with dates of their sale at Port Townsend, W. T., where they were taken after postponements and delays, also appear. They were sold on the 26th March, 1889, currently report at the time disposed of at a nominal value.

All the vessels named on the list, p. 179, went to sea in 1888, proceeding to Behring's Sea, and were, with the exception of the "Araunah," which was seized, successful. This seizure was made on the 1st July of that year by the Russian schooner "Alexander II," and taken to the port of Vladivostock, Russian Siberia.

All the vessels enumerated on p. 179 went to Behring's Sea in 1889, and the re of the "Triumph" and capture of the "Black Diamond," and subsequent ex are all fresh in the memories of our people, and need not be here repeated.

In conclusion, I have omitted remarks on the many questions arising in regar the seizure of our vessels, feeling assured that the Government is doing everyt to bring the matter to a speedy settlement. Also in regard to the habits of the many erroneous opinions being given in the American press, and by the paid offi of the Alaska Fur Company as to the loss of seals by wanton slaughter (as term it) of our sealers, I have made due and diligent inquiry as to the percenta seals liable to be lost after being shot, and from what I have gathered, it amo at most to only 6 per cent.

The habits of the seal are now well understood. They travel singly and in p not in droves or numbers as has been supposed by some, and to cover a large exp of water. They are found 400 miles westward of Vancouver Island, and migra Behring's Sea in September and October. The pups leave later in November temperature of the water having some influence upon their movement, but always return to Behring's Sea in June of every year.

Vessels cleared for North Pacific Ocean and Behring's Sea, 1885.

Schooners.	Tons.	
Mary Ellen	63	White crew and hunters.
Favorite	80	White crew and Indian hunters.

Vessels cleared for North Pacific Ocean, but did not enter Behring's Sea.

Schooners.	Tons.	
Alfred Adams	69	
Anna Beck	46	
Black Diamond	82	
Carolina	32	
Dolphin	60	
Grace	77	
Kate	58	
Mountain Chief	23	
Onward	35	
Thornton	29	
W. P. Sayward	60	

361 *Vessels cleared for North Pacific Ocean and Behring's Sea, 1886.*

Schooners.	Tons.	
Alfred Adams	69	
Anna Beck	46	
Active	42	Foundered April 1, 1887.
Black Diamond	82	
Dolphin	80	
Favorite	80	
Grace	77	
Carolina	32	Seized August 2, 1886, by United States Governm
Kate	38	
Mountain Chief	23	
Mary Ellen	63	
Onward	35	Seized August 1, 1886, by United States Governm
Penelope	70	
Pathfinder	66	
W. P. Sayward	60	
Thornton	29	Seized August 1, 1886, by United States Governm
Teresa	63	
Rustler	29	Wrecked February 26, 1887.

"Rustler" did not enter Behring's Sea.

Vessels cleared for North Pacific Ocean and Behring's Sea, 1887.

Schooner.	Tons.	Disposition.
Ada	55	Seized August 25, 1887, and sold by United States Government at Port Townsend, W. T., March 26, 1889.
Alfred Adams	69	
Anna Beck	40	Seized July 2, 1887, and sold by United States Government at Port Townsend, W. T., March 26, 1889.
Black Diamond	82	
Delphin	60	Seized July 12, 1887, and sold by United States Government at Port Townsend, W. T., March 26, 1889.
Favorite	80	
Grace	77	Seized July 17, 1887, and sold by United States Government at Port Townsend, March 26, 1889.
Juanita	48	
Kate	58	
Mary Taylor	43	
Mountain Chief	23	
Mary Ellen	63	
Penelope	70	
Pathfinder	66	
Sapphire	124	
W. P. Sayward	60	Seized July 9, 1887, by United States Government, and released under bonds.
Triumph	15	
Teresa	63	
Viva	92	
Wanderer	16	
Lottie Fairfield	150	

362 *Vessels cleared for North Pacific Ocean and Behring's Sea, 1888.*

Schooners.	Tons.	Disposition.
Annie C. Moore	113	
Araunah	71	Seized July 1, 1888, by Russian Government.
Aurora	41	
Black Diamond	82	
Favorite	80	
Juanita	40	
Kate	58	
Lily	60	Coming.
Letitia	28	
Mary Taylor	43	
Mountain Chief	28	
Mary Ellen	63	
Maggie Mc	71	
Penelope	70	
Pathfinder	66	
Sapphire	124	
W. P. Sayward	60	
Triumph	16	
Teresa	63	
Triumph	98	
Viva	92	
Wanderer	16	
Winifred	13	

The proceedings of the United States cruizers in seizing and sequestrating—and, in some cases, confiscating—the vessels and cargoes of British subjects engaged in fisheries on the open sea, have caused—as, no doubt, your Lordship is too well aware—excessive and prolonged irritation amongst our fellow-citizens of the Canadian Dominion, as it would appear that those in command of Her Majesty's vessels on the Pacific Coast feel themselves, for some reason, unable to check the high-handed proceedings of the United States cruizers; while those measures of redress, long since demanded by Her Majesty's Government, and ostensibly conceded by the United States Government, do not appear to have ever been carried out, or compensation made to the victims of admittedly lawless seizures.

Our Committee are more free in addressing your Lordship on this subject, inasmuch as the principles of international law involved in these transactions, and the violation of established Regulations affecting the freedom of the seas, both seem so clear, that they feel persuaded that the whole subject has only to be brought afresh to the serious attention of the United States Government to insure a settlement of the questions at issue and the termination of a grave occasion for irritation and complaint on the part of Her Majesty's Canadian subjects.

In venturing thus to press this international question on the attention of Her Majesty's Government, our Committee take leave to refer to your Lordship's despatch of the 10th September, 1887, in which the whole history of the case is clearly recapitulated, and the judicial principles concerned are cogently indicated.

Our Committee trust that now that public attention has been again drawn to this cause of prolonged friction, the arguments in the above-named valuable State paper will be again placed before the authorities of the United States, and feel persuaded that an amicable settlement may now be speedily sought for and attained.

We have, &c.

(Signed) W. MARTIN WOOD, *Vice-Chairman.*
J. FREDK. GREEN, *Secretary.*

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365 No. 251.

The Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *December 7, 1889.*

SIR: I have been informed that a telegram has been received by the Secretary of State for the Colonies from the Governor-General of Canada, reporting that his Council have expressed the following views in regard to reopening negotiations with the United States Government on the subject of the Behring's Sea seal fishery.

It is held by the Government of Canada, on evidence which they deem sufficient, that no real danger exists of the extermination of the seal fishery in Behring's Sea. They therefore contend that, if the United States Government are not of that opinion, that Government should make the proposals which they consider necessary for the protection of the species.

If, however, the renewal of negotiations is considered expedient by Her Majesty's Government, Canada will agree to that course on the following conditions:

1. That the United States Government shall first abandon any claim to regard the Behring's Sea as a *mare clausum*, and that any existing legislation in the United States, which would seem to support that claim, shall be either amended or repealed.

2. That there shall be a direct Representative of Canada on the British Commission entrusted with the negotiations, in the same manner as at the negotiations for the Treaty of Washington in 1871, the Fisheries Commission under that Treaty, and the Treaty of Washington of last year.

3. That any conclusions which may be the result of the negotiations shall be referred to the Dominion Government for approval.

4. That Great Britain and Canada, without Russia, shall conduct any negotiations for compensation for losses to British subjects arising out of the action of the United States authorities.

I have to request you to inform me whether you consider that these proposals will furnish the bases of possible negotiation.

I am, &c.

(Signed) SALISBURY.

No. 252.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, December 10.)

WASHINGTON, *December 12, 1889.*

MY LORD: Immediately on the receipt of your Lordship's telegram of the 7th instant, containing certain proposals of the Dominion Government in relation to the Behring's Sea question, and instructing me to report whether, in my opinion, those proposals furnished a basis of possible negotiation, I obtained an interview with Mr. Blaine, and I sounded him on the subject of Canada being directly represented in any diplomatic negotiations which might be renewed for the settlement of the controversy. Mr. Blaine at once expressed his absolute objection to such a course. He said the question was one between Great Britain and the United States, and that his Government would certainly refuse to negotiate with the Imperial and Dominion Governments jointly, or with Great Britain, with the condition that the conclusions arrived at should be subject to the approval of Canada.

I did not touch on the other proposals, for the following reasons:

As regards the abandonment of the *mare clausum* claim, no such claim having been officially asserted by the United States Government, they would naturally object to withdraw it; and as regards the suggested amendment of their legislation, such a proposal would gravely embitter the controversy, and is hardly necessary, as I conceive that there is nothing in the terms of such legislation, if correctly interpreted, with due regard to international law, which supports the *mare clausum* claim.

Lastly, it has never been suggested that Russia should intervene in the question of compensation, but on that question also the United States Government will insist on negotiating with Great Britain alone.

366 In my opinion, therefore, the proposals of the Dominion Government do not furnish a basis of possible negotiation.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 253.

Colonial Office to Foreign Office.—(Received December 10.)

DOWNING STREET, *December 10, 1889.*

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a telegram from the Governor General of Canada, containing the views of his Government as to the proposed negotiations at Washington for the establishment of a close time for seals in Behring's Sea.

As at present advised, Lord Knutsford is disposed to think that the conditions (*b*), (*c*), (*d*), upon which the Dominion Government are willing to enter upon the negotiations, may be acceded to; and his Lordship trusts that the point referred to in (*a*) may prove capable of arrangement.

I am to take this opportunity of transmitting to you, for Lord Salisbury's information, copies of the despatch and the telegram to which this message replies.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 253.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *November 23, 1889.*

MY LORD: Her Majesty's Government have been informed that a proposal to renew at Washington the diplomatic negotiation commenced last year between the Governments of the United States, Great Britain, and Russia, with a view to prevent the extermination of seals in Behring's Sea by their wholesale destruction during the breeding season, would be acceptable to the Government of the United States.

In commencing negotiation it would be desirable to obtain, in the first place, an admission from the United States Government that they have no right to claim the Behring's Sea as a *mare clausum*, and thus admission will of course remove a serious impediment which had embarrassed the discussion of the various questions at issue. Another point to be kept in view, would be the consent of the United States Government to give such directions as may be necessary for the prevention of any further seizures of Canadian vessels in the Behring's Sea, though it may be observed that the negotiations ought to be satisfactorily concluded before April, until which month there would be no question of further seizures.

With regard to the compensation payable on account of past seizures, there is reason to believe that the United States Government would propose that this subject should form a part of the general negotiations.

I think I am right in concluding that the Dominion Government is now prepared to concur in any reasonable arrangement for the establishment of a close season in Behring's Sea, and I therefore anticipate that your advisers will agree with Her Majesty's Government in thinking it expedient to commence the suggested negotiation at an early date, Her Majesty's Minister being assisted during the negotiation by an officer or officers of the Canadian Government.

You will understand that the conclusions which may be arrived at by the Representatives of the three Powers would be reported to their respective Governments for consideration, and would not be binding upon the subjects of any Power which has not accepted them.

I have explained to the High Commissioner for Canada the general nature of this proposal, and I shall be glad to learn by telegraph that your Ministers agree with
Her Majesty's Government that Her Majesty's Minister should be instructed to
367 propose formally to the United States Government the resumption of the tripartite negotiation at Washington in the event of his receiving satisfactory assurances from Mr. Blaine on the subject of the compensation claimed for British subjects, and the cessation of seizures.

I have, &c.

(Signed) KNUTSFORD.

[Inclosure 2 in No. 253.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *December 5, 1889.*

Hope that Colonial Government agree to proposal indicated in my despatch of 23rd November on the seal fishery question. Her Majesty's Government anxious for reply by telegraph as soon as possible.

[Inclosure 3 in No. 253.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, December 6, 1889.*

MY LORD: I had the honour to send to your Lordship to-day a telegraphic message, of which the following is the substance:

"In reply to your telegram Privy Council, at a meeting held to-day, recommend a reply to be sent as follows:

"1. Satisfactory evidence is held by Canada that the danger of extermination does not really exist.

"2. That if United States Government holds different opinion the proposal should be made by them.

"If it is deemed expedient by Her Majesty's Government to initiate proceedings, Canadian authorities consent to a reopening of negotiations on the following conditions:

"(*a.*) That the United States abandon its claim to consider Behring's Sea as a *mare clausum*, and repeal all legislation seeming to support that claim.

"(*b.*) That as in the cases of the Washington Treaty 1871, the Fishery Commission under that Treaty and the Washington Treaty 1888, Canada shall have direct representation on the British Commission.

"(*c.*) The approval of Canada to any conclusions arrived at shall be necessary.

"(*d.*) Russia to be excluded from the negotiations in reference to compensation and seizures."

I have, &c., (Signed) STANLEY OF PRESTON.

No. 254.

Foreign Office to International Arbitration and Peace Association.

FOREIGN OFFICE, *December 11, 1889.*

GENTLEMEN: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 6th instant, in which, on behalf of the Committee of the International Arbitration and Peace Association, you call attention to the question of the seal fisheries in Behring's Sea.

I am to state, in reply, for the information of your Committee, that this matter is receiving the earnest attention of Her Majesty's Government.

I am, &c. (Signed) P. CURRIE.

No. 255.

Colonial Office to Foreign Office.—(Received December 12.)

DOWNING STREET, *December 12, 1889.*

SIR: With reference to the letter from this Department of the 24th October, relating to the seizure, by the United States authorities in Behring's Sea, of the British schooners "Juanita" and "Pathfinder,"

I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, for such action as his Lordship may think proper, copies of two despatches from the Deputy Governor of Canada, forwarding claims for compensation for loss sustained by reason of such seizures.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 255.]

Deputy Governor Ritchie to Lord Knutsford.

OTTAWA, *November 14, 1889.*

MY LORD: With reference to my despatch of the 21st ultimo, dealing with the seizure of the British schooner "Juanita" in Behring's Sea, I have the honour to transmit herewith a copy of an approved Report of a Committee of the Privy Council, submitting the claim to compensation advanced by the owners of that vessel against the United States Government for loss incurred by reason of her seizure.

I have, &c.

(Signed) W. J. RITCHIE.

[Inclosure 2 in No. 255.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 9th November, 1889.

On a Report, dated the 4th November, 1889, from the Minister of Marine and Fisheries, submitting, in connection with the seizure in the Behring's Sea of the British schooner "Juanita," the circumstances attending which were detailed in a Minute of Council dated the 14th September, 1889, formal statements and claim to compensation for loss incurred by reason of the seizure of said vessel, and the transfer of the United States Revenue cutter "Richard Rush" of her cargo of sealskins and twelve spears, as well as the estimated balance of sealskins to complete the vessel's catch had she not been interfered with in the legitimate pursuit of her calling, which, with incidental expenses, aggregate 14,695 dollars.

The Minister observes that the claim is advanced by Mr. Richard Hall, of Hall, Goepel, and Co., of Victoria, British Columbia, part owners and business managers, and by Mr. Charles E. Clarke, part owner and master of the vessel in question; and he recommends that this claim be forwarded through the proper channel to Her Majesty's Government, for transmission to the Government of the United States.

The Committee advise that your Excellency be moved to forward copies hereof to the Right Honourable the Secretary of State for the Colonies for transmission to the Government of the United States, as recommended by the Minister of Marine and Fisheries.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

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869 [Inclosure 3 in No. 255.]

Affidavit of Charles E. Clarke.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, Charles E. Clarke, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, master mariner, do solemnly and sincerely declare as follows:

1. I am the duly registered owner of sixteen sixty-fourths of the British vessel "Juanita," schooner-rigged, of the port of Victoria aforesaid, the other owners of said vessel being Richard Hall, merchant, William J. Goepel, merchant, both of the said city of Victoria, and Hans Helgeson, of the same place, fisherman, each owning an equal number of shares in said vessel.

2. On the 7th day of May, A. D. 1889, I cleared the said "Juanita" at the Custom-house at the said port of Victoria for a sealing and hunting voyage in the North

Pacific Ocean and Behring's Sea. On the said voyage I was master of said vessel, and had a sailing crew of four men. The "Juanita" sailed from the port of Victoria on the 8th May last, and was equipped and provisioned for a full season's voyage and purposes above mentioned.

3. On the west coast of Vancouver Island I took on board fourteen Indian hunters, and then sailed northward.

4. On the 2nd day of July last the "Juanita" entered Behring's Sea through the Onnimak Pass.

5. Early in the morning of the 31st of July last the United States Revenue cutter "Richard Rush" steamed up to the "Juanita" and demanded that I heave my vessel to. I did so, and was at once boarded by three officers from the "Rush." The officer in charge asked me if I had any sealskins on board, and asked me if I had taken any seal in Behring's Sea. I told him I had come into the sea on the 2nd July, and had about 600 skins on board. He then reported to the Captain of the "Rush," informing me that he would have to seize my vessel and her cargo.

6. The Captain of the "Rush" ordered the sealskins to be taken from the "Juanita" and put on board the "Rush," which was at once done, the number taken being 600. A demand was made by the boarding officer for my ship's papers, and all guns, ammunition, and spears on board. He obtained the ship's papers and spears (twelve in number), which were taken on board the "Rush."

7. "Hereto annexed, marked "A," is a copy of the certificate of seizure given to me by the officer from the said steamer "Richard Rush," who also instructed me to proceed to Sitka, in the territory of Alaska, and to deliver a sealed letter, which he then handed me to the United States District Attorney of that place.

8. Being unable to continue sealing and hunting, I sailed out of Behring's Sea, and arrived at Victoria aforesaid on the 30th day of August last.

9. On my arrival at Victoria I handed the said sealed letter to the Collector of Customs.

10. Had the "Juanita" not been seized, and her hunting implements taken away, I verily believe that the said "Juanita" would have made a total catch in Behring's Sea the full season of 1889 of not less than 1,800 sealskins.

Declared at the city of Victoria, British Columbia, by the said Charles E. Clarke, the 15th day of October, A. D. 1889.

(Signed) CHARLES E. CLARKE.

Before me,

(Signed) ARTHUR LOUIS BELYEA,

A Notary Public by Royal authority in and for the Province of British Columbia, residing and practising at Victoria aforesaid.

[Inclosure 4 in No. 255.]

Certificate.

UNITED STATES STEAMER "RUSH,"

Behring Sea, Lat. 55° 42' N., Long. 170° 40' W., July 31, 1889.

To whom it may concern:

This will certify that I have this day seized the British schooner "Juanita," of Victoria, British Columbia, C. E. Clarke, master, for violation of Law, section 1956, Revised Statutes, United States, and taken possession of his ship's papers, consisting of registry and clearance.

(Signed) L. G. SHEPARD,
Captain, United States Revenue Marine.

This is the exhibit marked (A) referred to in annexed Declaration of Charles E. Clarke, made before me the 15th day of October, 1889.

(Signed) A. G. BELYEA, *Notary Public.*

[Inclosure 5 in No. 255.]

Affidavit of Richard Hall.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, Richard Hall, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, merchant, of the firm of Hall, Goepel, and Co., do solemnly and sincerely declare as follows:

1. That the said firm of Hall, Goepel, and Co., are the owners of thirty-two shares of the hereinafter-mentioned schooner "Juanita," of the Port of Victoria aforesaid, and are the business managers of the said schooner.

2. The said schooner was in May last sent by the said firm on a sealing and hunting voyage in the North Pacific Ocean and Behring's Sea.

3. The said schooner returned to Victoria the last of August, having taken, as I am informed, and do believe, by the captain of the said schooner, on said voyage, 653 sealskins, of which number the said firm received only thirty-two skins, sent to us from said schooner by the "Wanderer" before the "Juanita" entered Behring's Sea, said thirty-two sealskins having been taken outside Behring's Sea.

4. The remainder of the sealskins taken by the "Juanita" was, as I am informed by the said captain, and do verily believe, taken from the "Juanita" on or about the 31st day of July last, when said schooner was in Behring's Sea, by the orders of the Commander of the United States steamer "Richard Rush."

5. The market value of sealskins at the said Port of Victoria on or about the 1st October instant, when, in the ordinary course, the "Juanita" would have arrived after a full season's voyage aforesaid, was 8 dollars a skin.

6. From the number of sealskins taken by the "Juanita" up to the said 31st July I verily believe that the said schooner would, in a full season, have taken at least 1,800 sealskins.

7. At the same time the sealskins were taken from the "Juanita" by the officers of the said United States steamer "Richard Rush," there was also taken by the said officers, as I am informed by Captain Clarke, and do believe, twelve spears the value of which was 3 dollars each, and the ship's papers.

8. The said firm of Hall, Goepel, and Co., claims damages against the Government of the United States of America for such taking and detention of sealskins, spears, and ship's papers, based upon the value of the skins actually taken, and for 1,178 skins, the balance of an estimated catch of 1,800 sealskins by the said schooner for full season of 1889 in Behring's Sea; also for the value of the said spears, and for the cost of obtaining a new set of ship's papers from the Government of Canada, and for legal and other expenses in connection with the preparation and submission of this claim.

9. That hereto annexed, marked "B," is a statement in detail of such claim.

10. That upon the sailing of the said schooner in May last, advances were made to the hunters based upon a full season's catch, and said hunters will, upon payment of such claim, be entitled to and will receive their share thereof.

371 And I, Richard Hall, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Act respecting Extra-Judicial Oaths.

Declared by the said Richard Hall at the city of Victoria, British Columbia, the 14th day of October, A. D. 1889.

(Signed) RICHARD HALL.

Before me,
(Signed) A. L. BELYEA,
A Notary Public by Royal authority in and for the Province of British Columbia, residing and practising at Victoria aforesaid.

[Inclosure 6 in No. 255.]

(B.)

DETAILED Statement of Claim by Owners of British Schooner "Juanita" against the Government of the United States of America.

620 sealskins taken from "Juanita" in Behring's Sea by United States' steamer "Richard Rush," at 8 dollars per skin	$4,960.00
1,178 sealskins, balance of an estimated catch of 1,800 sealskins by the "Juanita" for the full season of 1889 in Behring's Sea, at 8 dollars per skin	9,424.00
12 spears, at 3 dollars	36.00
Cost of obtaining new ship's papers	25.00
Legal and other expenses incidental to the seizure	250.00
Total	14,695.00

(Signed) RICHARD HALL.

This is the exhibit (B) referred to in the declaration of Richard Hall hereto annexed, made before me the 14th day of October, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

[Inclosure 7 in No. 255.]

Deputy Governor Ritchie to Lord Knutsford.

OTTAWA, *November 15, 1889.*

MY LORD: With reference to my despatch of the 23rd September last, relating to the seizure in Behring's Sea of the British schooner "Pathfinder" by the United States Revenue cutter "Rush," I have the honour to forward herewith a copy of an approved Minute of the Privy Council submitting the claim to compensation of the managing owner of that vessel for the loss sustained by reason of her seizure by the United States authorities.

I have, &c. (Signed) W. J. RITCHIE.

[Inclosure 8 in No. 255.]

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 9th November, 1889.

On a Report dated the 5th November, 1889, from the Minister of Marine and Fisheries, submitting in connection with the seizure in Behring's Sea of the British schooner "Pathfinder," the circumstances attending which were detailed in a Minute of Council dated the 14th September, 1889, formal statement and claim to compensation for loss incurred by reason of the seizure of the vessel and the transfer of her cargo to the United States Revenue cutter "Richard Rush," as well as the estimated balance of sealskins to complete the vessel's catch, had she not been interfered with in the legitimate pursuit of her calling, aggregating 26,765 dollars.

372 The Minister observes that the claim is advanced by Mr. William Munsie, of the firm of Carne and Munsie, of Victoria, managing owner of the vessel in question, and he recommends that this claim be forwarded through the proper channel to Her Majesty's Government for transmission to the Government of the United States.

The Committee advise that your Excellency be moved to forward copies hereof to the Right Honourable the Secretary of State for the Colonies, for transmission to the Government of the United States, as recommended by the Minister of Marine and Fisheries.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 9 in No. 255.]

Affidavit of William Munsie.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, William Munsie, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, merchant, do solemnly and sincerely declare as follows:

1. I am a member of the firm of Carne and Munsie, merchant, of the said city of Victoria, the said firm being composed of Frederic Carne, Junior, of the same place, and myself.

2. The said Frederic Carne, Junior, is the registered owner of sixteen shares of the hereinafter mentioned schooner "Pathfinder," of the Port of Victoria; I am the registered owner of sixteen shares of said schooner, and the said firm are registered owners of the remaining thirty-two shares. I am the managing owner of the said schooner.

3. The said schooner "Pathfinder" cleared at the Custom-house, Victoria, aforesaid, on the 17th day of April, A. D. 1889, for a hunting and sealing voyage in the North Pacific Ocean and Behring's Sea, and sailed on the 18th day of April, A. D. 1889.

4. On the said voyage William O'Leary was master, and Andrew Davidson was mate. The crew consisted of a cook, twelve seamen, and five hunters.

5. On the 24th July last I received from the said "Pathfinder" by the schooner "Wanderer" from the north, 558 sealskins which had been caught by the "Pathfinder" in the Pacific Ocean on her way northward to Behring's Sea.

6. On the 30th August last the said "Pathfinder" returned to Victoria aforesaid, having on board an officer from the United States steamer "Richard Rush." Captain O'Leary reported to me that on the 29th day of July last the said United States steamer "Richard Rush" hailed him in Behring's Sea about 57° 24′ north latitude and 171° 55′ west longitude, and ordered him to heave to. The "Pathfinder" was immediately boarded by officers from the said "Richard Rush." The officer in charge seized the "Pathfinder" and took away all the sealskins on board (854), eight shotguns, four rifles, six boxes of ammunition, a quantity of salt, and the ship's papers. He left an officer on board in charge, and ordered Captain O'Leary to take the "Pathfinder" to Port of Sitka, in the Territory of Alaska.

7. At the time of such seizure the sealing season in Behring's Sea was less than half gone, and I verily believe that had the "Pathfinder" remained unmolested in Behring's Sea until the close of the season she would have caught not less than 2,100 sealskins. I have this on information given me by the said Captain O'Leary and by Captain Baker, of the schooner "Viva," also owned by us and managed by myself, who was in the Behring's Sea the whole season of 1889. The hunting equipment of the said two schooners was about equal.

A few days before the "Pathfinder" was seized as aforesaid, she was spoken by the "Viva." At that time the "Pathfinder" had 449 sealskins on board, and the "Viva" 420. The "Viva" caught in the full season in Behring's Sea 2,182 sealskins, and for the year a total of 3,641 skins.

8. In the year 1888, and this year 1889, the said firm of Carne and Munsie shipped their sealskins to London on their own account, and hereto annexed, marked (B), is a copy of the account sales of part of the catch of the "Pathfinder" for the year 1888; and hereto annexed, marked (C), is a copy of the account-sales of the said "Pathfinder's" catch of seals in the spring of 1889, before going north. The sealskins per first account sales (1888) netted the said firm at Victoria, British Columbia, about 12 dol. 25 c. per skin, and, per the second account sales, they netted the
373 said firm about 10 dol. 30 c. per skin at Victoria, British Columbia. The catch of 1889 was a spring catch, which always contains a larger percentage of small skins than the summer and fall catches, and hence realize less per skin on an even market.

9. I, for myself, the said Frederic Carne, Junior, and for the said firm of Carne and Munsie, claim damages against the Government of the United States of America for the seizure of the said "Pathfinder," and for the taking and detention of the said 854 sealskins, and for 1,246, the balance of the estimated catch of 2,100 in Behring's Sea for a full season; also for the guns, rifles, ammunition, salt, and ship's papers seized as aforesaid; and for legal and other expenses incidental to, and arising out of, such seizure, and the preparation and submission of this claim therefor, and interest thereon at 7 per cent. per annum.

10. Hereto annexed, marked (A), is a Statement in detail of such claim.

11. I am in constant communication with my agents in London, England, and from information I have received from such agents, I verily believe that the price of summer and fall catches of sealskins from North Pacific Ocean and Behring's Sea for 1889 will be fully up to the price obtained for the "Pathfinder's" catch, sold as per account-sales (B), hereto annexed, namely, 12 dol. 25 c. per skin net, at Victoria, British Columbia.

12. That I have paid in full the crew and hunters of the "Pathfinder" for the season of 1889, including the sums due to them in respect of the 854 sealskins seized as aforesaid.

And I, William Munsie, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Act respecting Extra-Judicial Oaths.

Declared by the said William Munsie, at Victoria, the 18th day of October, A. D. 1889, before me.

(Signed) WILLIAM MUNSIE.

(Signed) ARTHUR L. BELYEA,
A Notary Public by Royal authority in and for the Province of British Columbia, residing and practising at Victoria, British Columbia.

[Inclosure 10 in No. 255.]

(A.)

STATEMENT of claim by owners of schooner "Pathfinder" against the Government of the United States of America, for seizure in Behring's Sea on the 29th July, 1889.

854 sealskins (seized).
1,246 skins, balance of estimated catch by "Pathfinder" for full season 1889 in Behring's Sea,

2,100 skins, at 12 dol. 25c. each	$25,725.00
8 shot-guns, at 25 dollars each	440.00
4 rifles, at 25 dollars each	100.00
6 boxes ammunition, at say	200.00
Salt	25.00
Cost of obtainining new ship's papers	25.00
Legal and other expenses arising out of, and incidental to, such seizure	250.00
Total	26,765.00

And interest thereon at 7 per cent. per annum until paid.

(Signed) WILLIAM MUNSIE.

This is the Statement of claim referred to in the declaration of William Munsie, as marked (A), hereunto annexed, and made the 18th day of October, 1889.
Before me, (Signed) A. L. BELYEA, *Notary Public.*

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374 UNITED STATES REVENUE STEAMER "RUSH,"
Lat. 57° 24' N., Long. 171° 55' W., Behring's Sea, July 29, 1889.

SIR: You are hereby appointed a special officer, and are directed to proceed on board the schooner "Pathfinder," of Victoria, British Columbia, this day seized for violation of section 1956, Revised Statutes of the United States, and assume charge of said vessel, her officers, and crew, twenty white men all told.

Excepting the navigation of the vessel, which is reserved to Captain O'Leary, and which you will not interfere with, unless you become convinced he is proceeding to some other port than your port of destination, in which event you are authorized to assume full charge of the vessel. Everything being in readiness, you will direct Captain O'Leary to make the best of his way to Sitka, Alaska, and upon arrival at that port you will report in person to the United States District Attorney for the District of Alaska, and deliver to him the letter so addressed, the schooner, her outfit, and the persons of Captain O'Leary, Mate, A. Davidson, and set the crew at liberty. After being relieved of the property and persons entrusted to your care, you will await at Sitka the arrival of the "Rush."

Respectfully, (Signed) L. C. SHEPARD,
Captain, United States Revenue Marine.
WILLIAM MUNSIE.

T. W. HUNTER, *Special Officer.*

LONDON, *July 14, 1889.* (Prompt, July 18, 1889.)

Account Sales.

Sold by order and for account of Messrs. Carne and Munsie, a. p. sale.

PER "PATHFINDER."

C. and M.
P. 6 and p. 11 casks salted fur-seal skins.

Lot.		£	s.	d.
10.	67 small fur-seal skins, at 50*s.* each	167	10	0
11.	101 large pups ditto, at 53*s.* each	267	13	0
12.	74 middling ditto, at 52*s.* each	192	8	0
13.	97 small ditto, at 44*s.* each	213	8	0
14.	35 "ex" ditto, at 27*s.* each	47	5	0
15.	4 middling ditto, at 31*s.* each	6	4	0
	2 small ditto, at 31*s.* each	3	2	0
380		897	10	0
	Discount 2½ per cent	22	8	9
		875	1	3

June 24—	£	s.	d.			
Landing charges, telegrams, &c	1	3	9			
Housing and striking, 380 at 3*s.* 9*d.* per 100	0	14	3			
Piling away to sorter, 380, at 1*s.* 10½*d.* per 100	0	7	1			
Weighing for average, 100, at 2*s.* 6*d.* per 100	0	2	6			
Cessing for assortment, 380, at 2*s.* 6*d.* per 120	0	7	11			
Counting at delivery, 380, at 1*s.* 3*d.* per 120	0	4	10			
Rent on 380, at 6 p. 120 wk., 14 wks	0	6	4			
Showing for public sale, lotting, &c	0	11	3			
	3	17	1			
Allowance, 20 per cent. on £2 13*s.* 4*d.*	0	10	8			
	3	6	5			
Assorting for sale, 380, at 5*s.* 2½*d.* per 100	0	19	10			
Public sale charges, advertising, &c., 6 lots, at 3*s.* 6*d.*	1	1	0			
Fire insurance, ¼ per cent	2	4	11			
Commission, 2½ per cent	22	8	9			
				30	0	11
				845	0	4

(Signed) CULVERWELL, BROOKS, and CO.
WILLIAM MUNSIE.

375 This is the exhibit marked "C" referred to in the declaration of William Munsie, made before me the 18th day of October, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

PER "PATHFINDER."

P. 10 casks salted fur-seal skins.

Lot.		£	s.	d.
1.	13 small fur-seal skins, at 49*s.* each	31	17	0
2.	110 large pups ditto, at 58*s.* each	319	0	0
3.	107 middling ditto, at 58*s.* each	310	6	0
4.	59 small ditto, at 51*s.* each	150	9	0
5.	9 "ex." ditto, at 27*s.* each	12	3	0
	2 middling ditto, at 27*s.* each	2	14	0
6.	81 large pups ditto, at 52*s.* each	210	12	0
7.	82 large pups ditto, at 53*s.* each	217	6	0
8.	71 middling ditto, at 52*s.* each	184	12	0
9.	31 small ditto, at 43*s.* each	66	13	0
565		1,505	12	0
	Discount 2½ per cent.	37	12	10
		1,467	19	0

November 1—	£	s.	d.			
Landing charges, telegrams, &c.	0	17	0			
Housing and striking, 565, at 3*s.* 9*d.* per 100	1	1	2			
Piling away to sorter, 565, at 1*s.* 10½*d.* per 100	0	10	0			
Weighing for average, 150, at 2*s.* 6*d.* per 100	0	3	9			
Cessing for assortment, 565, at 2*s.* 6*d.* per 120	0	11	9			
Counting at delivery, 565, at 1*s.* 3*d.* per 100	0	5	11			
Rent on 565, at 6 p. 120 p. wk., 5 wks	0	11	9			
Showing for public sale, lotting, &c.	0	16	11			
	4	18	10			
Allowance, 20 per cent. on £4 1*s.* 10*d.*	0	16	4			
	4	2	6			
Assorting for sale, 565, at 5*s.* 2½*d.* per 100	1	9	4			
Public sale charges, advertising, &c., 9 lots, at 3*s.* 6*d.*	1	11	6			
For insurance	1	17	8			
Commission, 5 per cent.	75	5	8			
				84	6	8
				1,383	12	6

(Signed) WILLIAM MUNSIE.

DECEMBER 4, 1888.

This is the exhibit marked "B" referred to in the declaration of William Munsie, made before me the 18th day of October, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

Messrs. CARNE and MUNSIE:

We have this day sold for your account at public auction the undermentioned goods in conformity with the sale conditions.

Prompt, the 4th December, 1888. Discount, 2½ per cent.

EX "PATHFINDER."

P. 10 casks.

Lot.		
1.	13 small salted fur-seal skins, at	49*s.* each.
2.	110 large pups ditto	58*s.* "
3.	107 middling ditto	58*s.* "
4.	59 small ditto	51*s.* "
5.	9 ex small ditto	27*s.* "
	2 middling	27*s.* "
6.	81 large pups ditto	52*s.* "
7.	82 ditto, ditto	52*s.* "
8.	71 middling ditto	52*s.* "
9.	29 small ditto	43*s.* "
	2 ditto, ditto	43*s.* "

376 EX "VIVA."

V. 32 casks.

Lot.		
10.	3 wigs fur-seal skins, at	70s. each.
	10 middling ditto	70s. "
11.	47 small ditto	58s. "
12, 13.	200 large pups ditto	55s. "
14, 17.	372 ditto, ditto	56s. "
18, 21.	400 middling ditto	54s. "
22, 23.	200 ditto, ditto	55s. "
24.	65 ditto, ditto	56s. "
25, 28.	400 small ditto	46s. "
29.	100 ditto, ditto	47s. "
30.	55 ditto, ditto	46s. "
31.	119 ex small ditto	32s. "
32.	39 large ditto	49s. "
33.	26 middling ditto	41s. "
34.	16 small ditto	32s. "
35.	16 grey ditto	15s. "

Total, 6,580*l.* 12*s.* 4*d.*

(Signed) CULVERWELL, BROOKS, AND CO.

47, St. Mary Axe.

CULVERWELL, BROOKS, AND CO.
27 St. Mary Axe, London, February 2, 1889.

Result of Sales of Salted Fur-Seal Skins.

17,133 North-west Coast.. } offered and sold.
5,576 Lobos Island ..... }

There was again a good demand for this important article at the sales held on the 1st instant, and all classes sold readily at the advanced prices established at the November auctions. The skins were chiefly purchased by the English, French, and American buyers. There is every indication of prices being maintained.

PRICES.

	North-west Coast.		Lobos Islands.	
	s.	*s.*	*s.*	*s.*
Middlings and smalls	30 to	40	.....	
Smalls	29	46	23 to	41
Large pups	30	53	29	36
Middling ditto	25	55	27	33
Small ditto	22	41	19	26
Ex small ditto	19	38	16	21
Ex. ex. small ditto	15	24	.....	

With Culverwell, Brooks, and Co.'s compliments.
Messrs. CARNE AND MUNSIE.

CULVERWELL, BROOKS, AND CO.
27 St. Mary Axe, London, November 9, 1888.

Special Result of Sales of Salted Fur-Seal Skins, November 9, 1888.

100,000 Alaska..... }
9,008 North-west Coast.. } offered and sold.
13,333 Lobos Island..... }

There was a large attendance of buyers at these sales, and throughout active competition prevailed, and on all classes an important advance was established. In the Alaska collection the smaller sizes realized relatively the highest prices. We
377 quote middlings, smalls, and large pups, 28 per cent. to 26 per cent. dearer, and middlings and smalls, middling pup, small pups, and extra small pups, 43 per cent. to 48 per cent. higher.

The 9,003 North-west Coast contained one fine parcel which realized extreme rates, and on other parcels an average advance of 20 per cent. to 30 per cent was established.

The 13,333 Lobos Islands skins contained one good parcel of 2,000 skins, which realized 40 per cent higher rates. The other assortments were not of a desirable description, but 20 per cent. higher rates were paid.

The few Alaska skins dressed in their natural state by a well-known English firm, sold as follows:

Middlings and smalls, 130*s.* each; small, 118*s.*, 119*s.*; large pups, 93*s.*, 94*s.*; middling pups, 78*s.*; small pups, 66*s.*, 67*s.*; extra small pups, 63*s.* each. These prices include the cost of dressing.

PRICES.

	Alaska.		North-west Coast.		Lobos Islands.			
	s.	*s.*	*s.*	*s.*	*s.*	*d.*	*s.*	*d.*
Wigs	.....	.....	23	to 28	29	0	to 30	0
Middlings and smalls	68	to 120	33	45	.....			
Middlings	88		29	45	27	0	30	0
Smalls	68	116	29	51				
Large pups	62	92	26	54	24	0	37	0
Middling ditto	50	81	21	51	21	0	37	0
Small ditto	42	66	19	39	12	0	31	0
Ex. small ditto	50	62	14	29	8	0	20	0
Ex. ex. small ditto	.....	.....	11	26	.....			
Grey ditto	9	26	.....	.....	1	6	8	6

With Culverwell, Brooks, and Co's compliments.
To Messrs. CARNE AND MUNSIE,
Odd Fellows' Buildings, Douglas Street, Victoria, British Columbia.

No. 256.

Colonial Office to Foreign Office.—(Received December 13.)

DOWNING STREET, *December 13, 1889.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a telegram which he has addressed to the Governor-General of Canada respecting the proposed negotiations at Washington on the subject of a close time for seals in Behring's Sea.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 256.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *December 11, 1889, 9 p. m.*

In reply to your telegram of 6th instant.

Sir J. Pauncefote telegraphs: Mr. Blaine says that his Government have never asserted *mare clausum* doctrine, and will make no disclaimer, but that the question will be disposed of by international agreement for close time.

United States Government do not agree to Canadian representation in negotiation as to close time. Proceedings would not be in the form of a Commission, but a Diplomatic Conference. British Minister would be advised by Canadian Assistant; and as conclusions would not be binding unless accepted by Governments, it would seem unnecessary to press for direct representation of Canada. Russia would not intervene in negotiations as to compensation to British subjects.

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No. 257.

Colonial Office to Foreign Office.—(Received December 14.)

DOWNING STREET, *December 14, 1889.*

SIR: With reference to the letter from this Department of the 13th instant, inclosing copy of a telegram which had been addressed to the Governor-General of Canada, relating to the proposed negotiations at Washington on the subject of the establishment of a close time for seals in the Behring's Sea, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a telegram received from the Governor-General, in reply, communicating the views of his Government on points connected with this matter.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 257.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

(Received December 14, 1889.)

Substance of Resolutions passed at meeting of Council yesterday:

Mare clausum doctrine has been asserted by United States of America, by instructing its officers to seize vessels in mid-ocean, by setting up that doctrine in the Courts, by obtaining condemnation of ships on that doctrine, and by selling the property of Canadians under such condemnation. Canada expects British Government not to conclude arrangement unless Behring's Sea declared in it to be free. She adheres to opinion that agreement as to close season and preservation of seals should be subject to her approval as one of the parties chiefly interested in the question.

Agreement as to close season should be terminable by each of the Parties to the Treaty. Canada fails to understand objection of the United States of America to a Canadian being direct Representative of Her Majesty's Government; but to avoid delay, will defer without further protest to course decided on by Her Majesty's Government.

No. 258.

Colonial Office to Foreign Office.—(Received December 16.)

DOWNING STREET, *December 16, 1889.*

SIR: I am directed by the Secretary of State for the Colonies to request that you will inform the Marquis of Salisbury, with reference to the telegram from Lord Stanley of Preston on the proposal to resume negotiations respecting the Behring's Sea (a copy of which was transmitted to you in my letter of the 14th instant), that his Lordship, after conferring with Sir Charles Tupper, is of opinion that the concurrence of the Canadian Government in that proposal is now sufficiently complete, and that Her Majesty's Minister at Washington may be instructed to make a formal communication to the United States Government on the subject.

Lord Knutsford observes with satisfaction that the Dominion Government, although strongly impressed with the necessity arising out of the acts which it recapitulates in the first sentence of the telegram under consideration of concluding no arrangement which does not either comprise or rest upon a definitive assurance as to the freedom of the Behring's Sea, is now willing to waive the requirement that a declaration by the

United States Government to that effect shall precede the resumption of the negotiations, and to leave for future consideration at what time and in what manner this assurance shall be obtained.

On the second point raised in the telegram, Lord Knutsford thinks there can be no question as to complying in some form or other with the desire of Canada that no rules as to a close season shall be finally adopted unless she concurs in them. As the negotiations between the Representatives of the three Powers will be a diplomatic discussion *ad referendum*, and as Great Britain has no special interest in the Behring's Sea except on behalf of the Canadian fishery, this country could have no object in assenting to any conclusions unacceptable to the Canadian Government.

The telegram does not state the reason for which the Dominion
379 Government proposes that any one party to the Agreement shall have the power of terminating it, and, on this point, it will be desirable to consider the text of the Resolutions of the Privy Council when received; but Lord Knutsford apprehends that, as the Dominion Government considers it demonstrable that no close time is needed for the preservation of the seals, *à fortiori* it holds that any close time which may be prescribed in the first instance may possibly, after trial, be found needlessly injurious to the fishery, and should be practically subject to revision.

As the Dominion Government withdraws its stipulation for the direct representation of Canada in the negotiations, it will not be necessary to discuss this point further at the present time, and Lord Knutsford concludes that simultaneously with the discussion as to the close time, a Commission, comprising a Canadian Representative, but upon which Russia will not be represented, will consider the compensation to be paid in respect of the seizures of British vessels, and other losses arising out of past interference with them.

Lord Knutsford would therefore propose, with Lord Salisbury's concurrence, to reply to this telegram that Her Majesty's Government is glad to find that the Dominion Government consents to the negotiation in the form proposed, and will consult that Government at stages, and conclude no agreement as to a close time without their approval, and requests that a Representative of the Dominion Government may be ready to proceed to Washington as soon as Sir J. Pauncefote has received his instructions.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 259.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *December 16, 1889.*

SIR: I have laid before the Marquis of Salisbury your letter of the 10th instant, in which you inclose copies of two despatches from the Deputy Governor of Canada, forwarding claims for compensation for losses sustained by the owners of the British schooners "Juanita" and "Pathfinder," in consequence of the seizure of those vessels by the *United States* authorities in Behring's Sea.

His Lordship directs me to request you to inform Lord Knutsford, in reply, that these claims will be considered, together with those of other owners of vessels which have been seized, in the negotiations which it is proposed to conduct with the United States, and the commencement of which is waiting for the consent of the Canadian Government.

I am, &c.

(Signed) P. CURRIE.

No. 260.

The Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *December 17, 1889.*

SIR: I communicated to the Secretary of State for the Colonies your telegram of the 9th instant in regard to the question of reopening negotiations with the United States Government on the subject of the seal fisheries in Behring's Sea.

The Governor-General of Canada was made acquainted with the views of the United States Government, as expressed in that telegram, and a reply has been received from him to the following effect:

"The Government of Canada expects that no arrangement will be concluded with the United States by Her Majesty's Government in which it is not expressly declared that the Behring's Sea is free.

"They adhere to their view that any agreement as to a close season and the preservation of seals should be made subject to the approval of Canada, as one of the parties whose interests are primarily involved; and they consider that each of the parties to the Treaty should have the power of terminating the close season Agreement.

"The Dominion Government are unable to understand why the United States should object to Her Majesty's Government being directly represented by a Canadian Delegate, but, in order to avoid delay, they are willing to defer without further protest to the course decided on by Her Majesty's Government."

I am, &c. (Signed) SALISBURY.

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380 No. 261.

The Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *December 17, 1889.*

SIR: I have to inform you that the Secretary of State for the Colonies has had under his consideration, in consultation with Sir Charles Tupper, the views of the Canadian Government, communicated to you in my despatch of this day's date, respecting the proposed reopening of negotiations with the United States on the Behring's Sea question.

Lord Knutsford is of opinion that those views express with sufficient completeness the concurrence of the Dominion Government in the bases which would render such negotiations possible.

They are willing to abandon their former demand that, before the opening of the negotiations, the United States Government should make a declaration disclaiming any pretension to regard the Behring's Sea as a *mare clausum.*

The condition under which Canada is to be consulted before the final acceptance of any rules as to a close season would appear to present no difficulty, inasmuch as the discussions will be *ad referendum*.

Her Majesty's Government are not yet in possession of the text of the Resolution of the Canadian Privy Council, recommending that the close-season agreement should be terminable by both parties to the Treaty, but there would seem to be nothing unreasonable in such a stipulation.

Although the Canadian demand for a direct representative has been withdrawn, Lord Knutsford is of opinion that a Commission upon which Canada, but not Russia, should be represented, might consider the question of compensation for losses arising out of the action of the United States authorities at the same time as the discussion on the close-season agreement is being carried on.

Lord Knutsford will inform the Governor-General of Canada, by telegraph, that Her Majesty's Government are glad to learn that the Dominion Government consent to the reopening of negotiations in the form proposed; that the Dominion Government will be consulted at all stages of the discussion; and that no agreement as to a close season will be concluded without their approval.

Lord Knutsford will, at the same time, suggest that a Canadian representative should hold himself in readiness to proceed to Washington as soon as you have received your instructions in regard to the negotiations.

You are now authorized to make a formal communication to the United States Government in conformity with the instructions contained in this despatch.

I am, &c.

(Signed) SALISBURY.

No. 262.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *December 17, 1889.*

SIR: In reply to your letter of the 16th instant, I am directed by the Marquis of Salisbury to transmit herewith, for the information of Lord Knutsford, a copy of the instructions which have been addressed to Her Majesty's Minister at Washington,* directing him to make a formal proposal to the Government of the United States for the resumption of negotiations on the Behring's Sea question.

I am at the same time to say that Lord Salisbury coneurs in the reply which Lord Knutsford proposes to return to the telegram from the Governor-General of Canada, a copy of which accompanied your letter of the 14th instant.

I am, &c.

(Signed) P. CURRIE.

* No. 261.

381 No. 263.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 18.)

[Telegraphic.]

WASHINGTON, *December 18, 1889.*

I have received your telegram of yesterday.

It would be desirable that proposed communication of Colonial Office to Canada as to her consent to close season agreement be deferred.

I think Mr. Blaine will agree to an arrangement for a fixed term, and afterwards terminable at will of either party; but I am sure he will not consent to Commission to assess compensation. I have suggested that we should agree to a lump sum before the negotiation. He is considering the proposal with the President of the United States.

May I defer sending in a note until your Lordship has received my private letter, and until Mr. Blaine's answer reaches me?

No. 264.

The Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *December 18, 1889.*

SIR: I have received your telegram of this day's date, respecting the proposed negotiations on the question of the seal fisheries in Behring's Sea.

With reference to the request in the last paragraph, I have to inform you that you are authorized to defer making a formal proposal to the United States Government until you receive a reply from Mr. Blaine as to the possibility of agreeing upon a lump sum for the compensation of the owners of vessels seized by the United States authorities.

I am, &c.

(Signed) SALISBURY.

No. 265.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 23.)

WASHINGTON, *December 13, 1889.*

MY LORD: With reference to my despatch of the 12th instant, I have the honour to inclose herewith an extract from the Report of the Secretary of the Treasury for the year 1889 on the subject of the seal islands in Behring's Sea.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 265.]

Extract from the Report of the Secretary of the Treasury for the year 1889 on the subject of the Seal Islands in Behring's Sea.

The lease now held by the Alaska Commercial Company, of the exclusive right to take fur-seals on the Islands of St. Paul and St. George, in Behring's Sea, expires on the 1st day of May next. By the provisions of sections 1963 to 1967, Revised Statutes,

the Secretary of the Treasury is required to lease to proper and responsible parties, for the best advantage of the United States, having due regard for the interests of the Government, the native inhabitants, their comfort, maintenance, and education, the right of taking fur-seals on the islands named, and of sending vessels thereto for the skins so taken, for the term of twenty years, at an annual rental of not less than 50,000 dollars, and a revenue tax of 2 dollars upon each fur seal-skin taken during the continuance of the lease. These provisions impose a large measure of responsibility upon the Secretary, and the official record of legislative proceedings in the last preceding session of Congress indicates that it is the will of that body that such discretion should remain as originally provided in the Statute.

The present lessees of the seal islands pay an annual rental of 55,000 dollars and a combined revenue tax and royalty of 2 dol. 62½ c. per skin, and an experience of twenty years has shown the capability of the leasing system, when faithfully administered, to respond to the various public interests concerned.

382 The Pribylov Islands are now the only important sources of supply for merchantable seal-skins. The herd which makes those islands its home is variously estimated to number from 4,000,000 to 6,000,000 seals, but the Treasury agents on duty at the islands have begun to note an apparent decrease in the number of seals resorting to the islands in the breeding season. It is much to be desired that any such decrease is but temporary, for should the Pribylov herd disappear, there is none to replace it. It is estimated that upwards of 300,000 seals were killed by unauthorized sealing-vessels during the breeding seasons of 1888 and 1889, and as the great majority of these were cows, there was an almost equal loss of pup seals. It is obvious that the herd must soon disappear under such a decimation of its productive members, even if the habitual use of fire-arms did not tend to drive the seals away from their haunts in advance of their extermination.

The Act of the 2nd March, 1889, confers all the needed authority upon the Executive to protect the seals within the waters of the United States, but an appropriation is necessary to provide effective means for exercising that authority. There are not enough Revenue-cutters at the disposal of the Department to properly police the sealing-grounds during the dense fogs that prevail throughout the breeding season, and the great number of petty vessels engaged in marauding would render it impossible for their captors to furnish prize crews to take them all to Sitka for condemnation. The present state and prospects of the industry seem to call for prompt and energetic measures to preserve the valuable Pribylov herd from destruction or dispersion. It is suggested that a sufficient force of cruizing-vessels should be chartered, equipped, and manned, as auxiliary to such Revenue-vessels as could be spared from stations, and a depôt for prisoners established at Ounalaska, whence they could be transferred to Sitka, and dealt with according to law. It is believed that two or three seasons of energetic effort would break up the present destructive and threatening operations.

No. 266.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 27.)

[Telegraphic.]

WASHINGTON, *December 26, 1889.*

Seizures in Behring's Sea.

Secretary of State has been at New York during past week. I renewed discussion as to compensation this morning. He stated that he had decided to reply to the protest of Her Majesty's Government of October last, in order to place on record before the world the precise grounds on which his Government justify the seizures of our vessels, so that any compensation given may not be construed as an admission of wrong. He begged me to assure your Lordship that his reply would be sent in a few days, would not in any way embarrass the negotiations, and I will telegraph substance to your Lordship, and suspend further action pending its receipt.

No. 267.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 6, 1890.)

WASHINGTON, *December 26, 1889.*

MY LORD: I have the honour to report that I called on Mr. Blaine this morning on his return from New York, where he has been during the past week, and renewed the discussion as to the question of compensation for the seizures in Behring's Sea.

In the course of the conversation he informed me that, on further consideration, he had decided to reply to my protest in order to place on record before the world the precise grounds on which the United States Government justify the seizure of the Canadian vessels, so that any compensation which may be granted may not be interpreted as an admission of wrong.

He begged me, at the same time, to assure your Lordship that the proposed negotiations would not be embarrassed in any way by his reply, and that he would send it in a few days.

I will telegraph the substance of his note to your Lordship as soon as I shall have received it, and I propose to suspend further action pending its receipt.

I have, &c.

(Signed) J. PAUNCEFOTE.

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No. 268.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 6, 1890.)

WASHINGTON, *December 26, 1889.*

MY LORD: I have the honour to transmit herewith an extract from the "Washington Post," on the subject of an advertisement which has just been issued by the Secretary of the Treasury, inviting proposals for the privilege of taking fur-seals upon the Islands of St. Paul and St. George, Alaska, for the term of twenty years from the 1st May next.

As your Lordship will observe, the number of seals to be taken during the year ending May 1891 will be limited to 60,000, and for the succeeding years the number will be determined by the Secretary of the Treasury.

I have, &c.

(Signed) J. PAUNCEFOTE.

[Inclosure in No. 268.]

Extract from the "Washington Post" of December 25, 1889.

THE SEAL ISLAND CONTRACT.—Secretary Windom yesterday afternoon issued the following advertisement, inviting proposals for the privilege of taking fur-seals upon the Islands of St. Paul and St. George, Alaska:

"The Secretary of the Treasury will receive proposals until 12 o'clock, noon, on the 23rd day of January, 1890, for the exclusive right to take fur-seals upon the Islands of St. Paul and St. George, Alaska, for the term of twenty years from the 1st day of May, 1890, agreeably to the provisions of the Statutes of the United States.

"In addition to the specific requirements of the said Statutes the successful bidder will be required to provide a suitable building for a public school on each island

and to pay the expense of maintaining schools therein during a period of not less than eight months in each year, as may be required by the Secretary of the Treasury.

"Also to pay to the inhabitants of said islands, for labour performed by them, such just and proper compensation as may be prescribed by the Secretary of the Treasury.

"The number of seals to be taken for their skins upon said islands during the year ending May 1891 will be limited to 60,000, and for the succeeding years the number will be determined by the Secretary of the Treasury in accordance with the provisions of law.

"The right is reserved to reject any and all proposals not deemed to be in accordance with the best interests of the United States, and of the inhabitants of said islands.

"As a guarantee of good faith, each proposal must be accompanied by a properly certified cheque drawn on a United States national bank."

No. 269.

Colonial Office to Foreign Office.—(Received January 10.)

DOWNING STREET, *January 10, 1890.*

SIR: With reference to the letter from this Department of the 12th ultimo, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, copies of three despatches from the Governor-General of Canada, forwarding the claims for losses incurred by the seizure in Behring's Sea of the "Triumph," the "Lily," and the "Black Diamond."

The claim in the case of the "Minnie" has not yet been received.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 269.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, December 16, 1889.*

MY LORD: With reference to my despatch of the 26th August last,* in which I inclosed a copy of an approved Minute of the Privy Council detailing the
384 circumstances attending the warning-off from the Behring's Sea of the British sealing schooner "Triumph," I have the honour to forward herewith, for transmission to the United States Government, a copy of an approved Report of a Committee of the Privy Council, submitting formal statements and claim to compensation, on behalf of the owners, for loss incurred by reason of the said vessel being interfered with in the legitimate pursuit of her calling.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 269.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on November 16, 1889.

On a Report, dated the 11th November, 1889, from the Minister of Marine and Fisheries, submitting, in connection with the warning-off from the Behring's Sea of the British sealing-schooner "Triumph," the circumstances attending which were detailed in the Minute of Council dated the 22nd August last, made upon a Report of the 13th August last of the Minister of Marine and Fisheries, formal statements and claim to compensation on behalf of the owners, for loss incurred by reason of the said vessel being interfered with in the legitimate pursuit of her calling.

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*See Inclosure 1 in No. 222.

The Minister states that this claim amounts to 19,674 dollars, and is advanced by Mr. E. Crow Baker, of Victoria, British Columbia, managing owner, on behalf of himself, Daniel McLean, Rosine Gibson, and John C. Blackett, as joint owners of the vessel in question.

The Committee advise, on the recommendation of the Minister of Marine and Fisheries, that your Excellency be moved to forward a copy of this Minute, together with the papers herewith annexed, to the Right Honourable the Secretary of State for the Colonies for transmission to the Government of the United States.

All of which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

[Inclosure 3 in No. 269.]

Declaration of Edgar Crow Baker.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, Edgar Crow Baker, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, retired Navigating Lieutenant, Royal Navy, but at present (among various other businesses) following the occupation or calling of a Real Estate and Financial Broker in the city aforesaid, and the duly authorized managing owner of the British sealing-schooner "Triumph," do solemnly and sincerely declare as follows:

1. That said schooner was built in April 1887 in Shelburne, Nova Scotia, purchased by myself and others, as per original register, and brought to the port of Victoria by one Daniel McLean, master and part owner, for the express purpose of engaging in the business of seal-hunting in the North Pacific Ocean and Behring's Sea, and elsewhere.

2. That said vessel was duly registered at the port of Victoria, British Columbia, by the usual method of transfer of registry, on the 2nd December, 1887, with the port number 11, her registered tonnage being 87.51, and her official number, 90,681.

3. That said vessel arrived at the port of Victoria on or about the 25th April, 1888, and after undergoing usual refit and outfit for her sealing voyage, cleared from the port of Victoria on or about the 5th May, 1888, for Behring's Sea, and prosecuted that branch of the deep-sea fisheries known as seal-hunting, in said arm of the North Pacific Ocean, with a crew composed principally of Indian hunters, and returned to Victoria on or about the 12th September of said year with a catch of 2,491 sealskins, and the master reported no interference or molestation on the part of the United States Revenue cruizers.

4. That said catch was sold in the market at Victoria for the price or sum of 14,219 dol. 75 c., and after reimbursing all expense of outfit for the hunting period, payment of hunters and crew, yielded a very handsome profit to the owners of said vessel for their season's venture.

5. That the price paid for skins during the season immediately above referred to was 6 dollars only in Victoria, though 75 dol. 25 c. and 65 dol. 50 c. was obtained at the usual fall sales in London, Great Britain.

6. That the registered owners of said vessel at that time were: Edgar Crow Baker, 21 shares; Walter E. Blackett, 21 shares; Daniel McLean, 22 shares, participating equally in the profits, and the vessel commanded by same master.

7. That in January of the present year (1889), in order to make the vessel as staunch and seaworthy as it was possible to make a vessel, not then two years old, she was docked in graving-dock at Esquimalt, and coppered to 9 feet forward and 11 feet aft, at an expense to the owners of 1,234 dol. 50 c., thereby enhancing the value of said vessel from 8,250 dollars to very nearly 9,500 dollars.

8. That the primary object in sparing no expense to efficiently equip said vessel was that she might "keep the sea" in any weather, and prolong her seal-hunting voyage until the latest moment of the season, and return to her home-port in the following season with a catch in excess of that already quoted.

9. That the declarant sent said vessel down to San Francisco on the 24th March of the present year, in order to procure the best white hunters, sealing boats and sealing outfit obtainable, and disbursed for same and provisions 2,966 dol. 24 c.

10. That said vessel left San Francisco on or about the 12th April of the present year with a crew consisting of master, mate, carpenter, gunner, cook and steward, eight hunters, seventeen able and ordinary seamen, and two apprentices, in all thirty-two in number, as per certificate of shipping master of said port.

11. That said vessel entered and cleared from the port of Victoria on the 25th day of April last, and sent by the declarant on a sealing and hunting voyage in the North Pacific Ocean and Behring's Sea at a further cost to the owners of 2,975 dol. 19 c. for advances to hunters and crew, provisions, sails, equipments and apparel, marine insurance, and necessaries.

12. That the total amount of cash at risk in said venture, from commencement of voyage to finish on the 28th July, was 15,425 dol. 43 c., irrespective of the lay out or wages of master.

13. That the said schooner entered Behring's Sea on or about the 4th July, and having previously transhipped her outside, or coast catch, was hove to on the 11th July, and boarded by Lieutenant Tuttle, of the United States Revenue cutter "Richard Rush" (as per sworn-to testimony of the master, made on arriving in Victoria, dated the 8th August) who searched the vessel, examined and returned ship's papers, and ordered the schooner out of Behring's Sea, threatening confiscation of vessel and catch if caught in the act of killing seals, or with skins on board after having been warned.

14. That by reason of the threats and menaces of the said United States cutter, the master was prevented from further prosecuting his legitimate business in said sea, and not wishing to incur the responsibility of threatened capture of his valuable vessel, returned to Victoria on the 28th July, with only seventy-two skins on board, and which were on board at the time of search, though undiscovered by the boarding officer, at least, so I am informed and verily believe.

15. That from the number of skins taken by the "Triumph" last year, with vessel partially equipped only and with less experienced hunters, I conscientiously believe that the said schooner, in a full season unmolested and free from fear of molestation, would have taken in the neighbourhood of 2,500 skins.

16. That the market value of sealskins at the port of Victoria, on or about the 1st October instant, when in the usual course of events heretofore, the "Triumph" would have arrived after a complete season's voyage, as hereinbefore mentioned, was 8 dollars per skin.

17. That the declarant, on behalf of himself and co-owners, claims damages against the Government of the United States of America for the unlawful and unwarrantable interference, molestation, threat and menace of its said Revenue cutter, whereby a heavy loss is incurred by the owners and hunters of said schooner "Triumph," amounting to the value of the difference between the skins actually taken, and estimated catch, viz., 2,428 skins (2,500, less 72) at 8 dollars per skin, or the sum of 19,424 dollars, and 250 dollars for legal and other expenses in connection with the preparation and submission of this claim.

18. That hereto annexed, marked (A), is a statement in detail of such claim, and of the persons entitled to share therein.

19. That upon the sailing of the said schooner in April and May last at San Francisco and Victoria, respectively, advances were made to the hunters based upon a full season's catch, and said hunters will, upon payment of said claim, be entitled to, and will receive their share thereof.

386 And I, Edgar Crow Baker, make this solemn declaration, conscientiously believing the same to be true, just and equitable, and by virtue of Act respecting Extra-Judicial Oaths.

(Signed) EDGAR CROW BAKER,
Managing Owner.

Declared by the said Edgar Crow Baker, at the City of Victoria, British Columbia, the day of November, A. D. 1889.

Before me,

(Signed) D. R. HARRIS,
A Notary Public by Royal Authority in and for the Province of British Columbia, residing and practising at Victoria aforesaid.

[Inclosure 4 in No. 269.]

DETAILED Statement of Claim by Owners of British schooner "Triumph" against the Government of the United States of America.

2,428 sealskins, balance of an estimated catch of 2,500 sealskins by the schooner "Triumph" for the full season of 1889 in Behring's Sea, at 8 dollars per skin	$19,424
Legal and other expenses incidental to preparation and submission of claims.	250
Total	19,674

OWNERS on October 1, 1889.

	Shares.
Edgar Crow Baker, managing owner	21
Daniel McLean, master mariner	22
Rosine Gibson, Bauie, Ontario	11
John C. Blackett, Victoria, British Columbia	10
Total	64

N. B.—E. Crow Baker, representing D. McLean's shares by full power of attorney, and as mortgagee in possession, J. C. Blackett, by power of attorney, and Rosina Gibson's by consent of attorney.

(Signed) EDWARD CROW BAKER,
Managing Owner.

The schedule marked (A) referred to in statement, of which this form part.

(Signed) D. R. HARRIS,
Notary Public for the Province of British Columbia.

To all to whom these presents shall come be it known and made manifest that I, Alexander Roland Milne, a Surveyor in Her Majesty's Customs for the Port of Victoria, British Columbia, in the Dominion of Canada, duly appointed as such, residing and officiating in said capacity in the city of Victoria, in the Province aforesaid, do hereby certify that the paper written hereto annexed, dated the 8th August, 1889, signed and sworn to before George Morrison, J. P., on said day by one Daniel McLean, master of the British schooner "Triumph," registered at the port aforesaid and engaged in the sealing business, is as it purports to be a full, true and correct copy of the original thereof in every respect. I do further certify that the original document was forwarded by the Collector of Customs of this port to the Department of Marine and Fisheries at Ottawa on or about the date therein named, and that I have full confidence in the truth of the statements made by said master embodied in said affidavit.

In testimony whereof I have hereunto set my hand and seal of office at the city of Victoria, British Columbia, this 4th day of November, 1889.

(Signed) A. R. MILNE, *Surveyor, &c.*

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27 [Inclosure 5 in No. 269.]

Deposition of Daniel McLean.

In the matter of search, &c., of the sealing schooner "Triumph" by the United States Revenue cutter "Richard Rush" in Behring's Sea.

I, Daniel McLean, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, being duly sworn, depose as follows:

That I am master and part owner of the British schooner "Triumph," registered at the Port of Victoria, British Columbia, that in conformity to the laws of the Dominion of Canada I regularly cleared the said schooner "Triumph" for a voyage to the North Pacific Ocean and Behring's Sea, and that in pursuance of my legitimate business did enter the said Behring's Sea on the 4th day of July, 1889, and did in a peaceful manner proceed on my voyage and being in latitude 50° 5′ north, longitude 171° 23′ west, on the 11th day of July, 1880, at the hour of 8.30 A. M., was hailed by the Commander of the United States Revenue cutter "Rush," the said Revenue cutter being a vessel belonging to the Government of the United States and regularly commissioned by the same, a boat having been lowered by the officer and crew I was boarded by the same, the officer in charge of the boat being one Lieutenant Tuttle, who demanded the official papers of my vessel, and after reading the same proceeded to search my vessel for seals, and finding no evidence of the same informed me that orders have been issued by the Secretary of the Treasury of the United States under the Proclamation of the President, instructing the Commanding Officer of the said Revenue cutter "Rush" to seize all vessels found sealing in Behring's Sea; he also told me that should he again board me and find sealskins on board that he would seize and confiscate the vessel and catch; he furthermore informed me that he had already seized the British schooner "Black Diamond," of Victoria, British Columbia, and that she had been sent to Sitka, and that, therefore, by reason of his threats and menaces I was caused to forego my legitimate and peaceful voyage on the high seas, and return to the port of my departure, causing serious pecuniary loss to myself, crew, and owners, for which a claim will be formulated and forwarded in due course.

And I make this solemn affidavit conscientiously believing the same to be true, and by virtue of the Oaths Ordinance, 1869.

(Signed) DANIEL MCLEAN,
Master, Schooner "Triumph."

Sworn before me this 8th August, 1889, at Victoria, British Columbia.

(Signed) GEO. MORRISON, *J. P.*,
A Justice of the Peace for the Province of British Columbia.

I do hereby certify to the correctness of this statement as verbally expressed to me also by said Daniel McLean.

(Signed) EDGAR CROW BAKER,
Notary Public.

[Inclosure 6 in No. 269.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, December 17, 1889.*

MY LORD: With reference to my despatch of the 26th August last, relating to the seizure in Behring's Sea of the British schooner "Black Diamond," I have the honour to forward herewith a copy of an approved Minute of the Privy Council, submitting the claim to compensation of the owner of the vessel for loss sustained by reason of her seizure by the United States authorities.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 7 in No. 269.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on December 2, 1889.

On a Report dated the 28th November, 1889, from the Minister of Marine and Fisheries submitting, in connection with the seizure in the Behring's Sea of
388 the British schooner "Black Diamond," the circumstances attending which were detailed in the Minute of Council approved by your Excellency on the 22nd August, 1889, formal statements and claim by the owner to compensation for loss incurred by reason of the seizure of said vessel, and the forcible removal to the United States Revenue cutter "Richard Rush" of seventy-six sealskins, as well as for the value of the estimated catch for the balance of the season had the vessel not been interfered with in the legitimate pursuit of her calling, which claim, with incidental expenses, aggregates the sum of 17,185 dollars.

The Minister recommends that this claim be forwarded through the proper channel to her Majesty's Government for transmission to the Government of the United States.

The Committee advise that your Excellency be moved to forward copies hereof to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 8 in No. 269.]

Declaration of Morris Moss.

CANADA, *Province of British Columbia, City of Victoria.*

I, Morris Moss, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, fur dealer and ship-owner, do solemnly and sincerely declare as follows:

1. I am a British subject by birth, and the duly registered owner of the schooner "Black Diamond," of the port of Victoria, aforesaid.

2. On the 12th day of February, 1889, the said schooner was cleared at the Custom-house at said city of Victoria for a fishing and hunting voyage to the North Pacific Ocean and Behring's Sea.

3. On the 3rd day of August, 1889, the said "Black Diamond" returned to Victoria aforesaid, and hereto annexed, marked (X), is the statutory declaration of Alexander Gault, the mate of the said schooner on said voyage, of the cause and manner of the "Black Diamond's" return to Victoria from such voyage, which said statement I verily believe is true.

4. The value of the sealskins taken from the "Black Diamond" as set out in said Alexander Gault's statement was, on or about the 1st day of October (when in due course the vessel would have delivered her cargo of skins at Victoria aforesaid), 8 dollars per skin. The salt so taken as aforesaid was worth 5 dollars. The Indian spears 4 dollars each, and the said rifle was worth 25 dollars.

5. From the actual catch of seals made in said sea during said season by other sailing vessels, I verily believe that had the said "Black Diamond" not been seized and her hunting voyage broken up as set out in said statement of Alexander Gault, the hunters on said schooner would have captured at least 2,100 sealskins in said Behring's Sea during the season of 1889.

6. I, for myself and the crew and hunters of the said "Black Diamond," claimed damages against the Government of the United States of America for the seizure of

the said "Black Diamond," and for the taking and detention of said seventy-six sealskins, and for 2,024 sealskins the balance of the estimated catch of 2,100 in Behring's Sea for the full season of 1889, also for the salt, rifle, Indian spears, and ship's papers taken as aforesaid, and for legal and other expenses incidental to, and arising out of, such seizure, and the preparation and submission of this claim therefor and interest thereof at 7 per cent. per annum until paid.

7. Hereto annexed marked (A) is a Statement in detail of such claim for damages.

And I, Morris Moss, make this solemn declaration conscientiously believing the same to be true, and by virtue of the Act respecting Voluntary and Extra-Judicial Oaths.

(Signed) MORRIS MOSS.

Declared by the said Morris Moss, at the city of Victoria, the 19th day of November, A. D. 1889.

Before me,

(Signed) ARTHUR L. BELYEA,

A Notary Public by Royal Authority in and for the Province of British Columbia.

[Inclosure 9 in No. 209.]

(A.)

STATEMENT of Claim by Owner of schooner "Black Diamond" against the Government of the United States of America for Seizure in Behring's Sea on July 11, 1889.

76 sealskins (seized).
2,024 sealskins, balance of estimated catch by "Black Diamond" for full season of 1889 in Behring's Sea.

2,100 sealskins, at 8 dollars	$16,800
1 rifle, at	25
20 spears, at 4 dollars each	80
2 sacks salt, at 2 dol. 50 c. each	5
Cost of obtaining new ship's papers	25
Legal and other expenses arising out of, and incidental to, such seizure	250
Total	17,185

And interest thereon at 7 per cent. per annum until paid.

(Signed) MORRIS MOSS.

This is the Statement referred to as marked (A) in the declaration of Morris Moss, taken before me the 19th November, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

(X.)

In the matter of the seizure of the sealing schooner "Black Diamond," by the United States Revenue cutter "Richard Rush," on the 11th day of July, A. D. 1889.

I, Alexander Gault, of the city of Victoria, mate, do solemnly and sincerely declare that:

1. I was at the time of the occurrences hereinafter mentioned, employed as mate of the sealing schooner "Black Diamond," of the port of Victoria, British Columbia.

2. On the 11th day of July last, whilst on board the said schooner, she then being on a sealing expedition, and in latitude 56° 22′ north, and longitude 170° 25′ west, and at a distance of about 35 miles from shore, we were overhauled by the "Richard Rush," a United States Revenue cutter, which latter vessel having hailed us, and shouted a command we were unable to understand, steamed across our steamer's bows compelling us to come to. A boat was then lowered from the cutter, and Lieutenant Tuttle, with five other men came aboard the schooner. The captain of our schooner asked Lieutenant Tuttle what he wanted, and he replied he wished to see our papers. The captain then took him down into his cabin, and in my presence showed him the ship's papers.

Lieutenant Tuttle then demanded that they should be handed to him, but our captain refused to give them up, and locked them in his locker. Lieutenant Tuttle then ordered his men to bring up the sealskins. At this time there were seventy-six salted and fifty-five unsalted sealskins on board. The Lieutenant then ordered the

salted skins to be taken on board the "Richard Rush." This was done by the cutter's boat, two bags of salt and a rifle being also taken from the schooner to the cutter.

Lieutenant Tuttle told our captain that if he did not give up the papers he should take them by force, and our captain still refusing, the Lieutenant hailed the cutter, and a boat brought off the Master-at-arms who came aboard our schooner. Lieutenant Tuttle asked our captain for his keys, but not being able to obtain them, ordered the Master-at-arms to force the locker. The master-at-arms then unscrewed the hinges of the locker, and taking out the papers, handed the same to Lieutenant Tuttle. Lieutenant Tuttle then went back to the "Richard Rush," but returned again, bringing with him one whose name I have since heard to be John Hawkinsen.

The Lieutenant then ordered certain Indian sealing spears belonging to the schooner to the number of twenty to be placed in his boat, which was accordingly done by the cutter's men. Our captain asked him for a receipt for the skins, ship's papers, and other goods he had taken; this he refused to give. He then ordered our captain to take the schooner to Sitka, but our captain told him that if he wanted the schooner to go there he would have to put a crew on board to take her there.

Lieutenant Tuttle then gave Hawkinsen some orders and some papers addressed to the United States authorities at Sitka, and, leaving Hawkinsen on board the schooner, and taking the spears with him, returned to the cutter, which shortly afterwards steamed away, taking the ship's papers, the skins, and other goods with her.

390 We set sail for Oonalaska where the captain hoped to fall in with a British man-of-war, and arrived at that place on the 15th day of July. There being no man-of-war there, and the Indians having become very mutinous, and threatening to throw us overboard if they thought we were going to Sitka, we set sail for the port of Victoria, reaching the latter place on the 3rd day of August, 1889, at about the hour of 7 P. M. The man Hawkinsen, during the voyage, did not attempt to give any directions or suggestions as to the course to be taken by the schooner, and on arrival at Victoria was placed on shore by one of the schooner's boats.

And I make this declaration conscientiously believing the same to be true, and by virtue of the Oaths Ordinance, 1889.

(Signed) ALEXANDER GAULT.

Declared before me at the city of Victoria, this 8th day of August, 1889.

(Signed) ERNEST V. BODWELL,
A Notary Public for the Province of British Columbia.

This is the statutory declaration of Alexander Gault referred to as marked (X) in the declaration of Morris Moss made before me the 19th day of November, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

[Inclosure 10 in No. 269.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, December 17, 1889.*

MY LORD: With reference to the Deputy Governor's despatch of the 24th September last relating to the seizure in Behring's Sea of the British schooner "Lily," I have the honour to transmit to your Lordship a copy of an approved Report of a Committee of the Privy Council, submitting formal statements and claim to compensation advanced by the owners of that vessel against the United States Government for loss incurred by reason of her seizure.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 11 in No. 269.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on December 2, 1889.

On a Report dated the 28th November, 1889, from the Minister of Marine and Fisheries, submitting, in connection with the seizure in the Behring's Sea of the British schooner "Lily," the circumstances attending which were detailed in the

Minute of Council approved by your Excellency on the 18th September, 1889," formal statements and claims by the owners to compensation for loss incurred by reason of the seizure of said vessel, and the forcible removal to the United States Revenue cutter "Richard Rush" of 333 sealskins, as well as for the value of the estimated catch for the balance of the season had the vessel not been interfered with in the legitimate pursuit of her calling, which claim, with incidental expenses, aggregates the sum of 17,167 dollars.

The Minister recommends that this claim be forwarded through the proper channel to Her Majesty's Government for transmission to the Government of the United States.

The Committee advise that your Excellency be moved to forward copies hereof to the Right Honourable the Secretary of State for the Colonies.

All which is respectfully submitted.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

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331 [Inclosure 12 in No. 269.]

Declaration of Morris Moss.

CANADA, *Province of British Columbia, City of Victoria.*

I, Morris Moss, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, fur dealer and ship-owner, do solemnly and sincerely declare as follows:

1. I am a British subject by birth, and the duly registered owner of the schooner "Lily" of the port of Victoria aforesaid.

2. On the 20th day of May, A. D. 1889, the said schooner "Lily" cleared at the Customs-house, Victoria aforesaid, for a fishing and hunting voyage in the North Pacific Ocean and Behring's Sea.

3. On the 1st day of September, A. D. 1889, the said schooner "Lily" returned to the said port of Victoria, and hereto annexed, marked (X), is the statutory declaration of John Reilly, the master of the said schooner "Lily" on said voyage, setting forth the cause and manner of the return to Victoria of said schooner from such voyage, which said statement I verily believe to be true.

4. The value of the sealskins taken from the said "Lily," as set out in said John Reilly's statement, was, on or about the 1st day of October (when in due course the said vessel would have delivered her cargo of skins at Victoria aforesaid), 8 dollars per skin. The salt so taken as aforesaid was worth 5 dollars, and the Indian spears 4 dollars each.

5. From the actual catch of seals made in said sea during said season by other vessels, I verily believe that had the said "Lily" not been seized, and her hunting voyage broken up, as set out in said statement of John Reilly, the said hunters on said schooner "Lily" would have captured at least 2,100 sealskins in Behring's Sea during the season of 1889.

6. I for myself and the crew and hunters of the said "Lily" claim damages against the Government of the United States of America for the seizure of the said "Lily," and for the taking and detention of said 333 sealskins, and for 1,767 sealskins, the balance of the estimated catch of 2,100 in Behring's Sea for the full season of 1889; also for the salt and Indian spears and ship's papers taken as aforesaid, and for legal and other expenses incidental to, and arising out of, such seizure, and the preparation and submission of this claim therefor and interest thereon, at the rate of 7 per cent. per annum until paid.

7. Hereto annexed, marked (A), is a statement in detail of such claim for damages.

And I, Morris Moss, make this solemn declaration conscientiously believing the same to be true, and by virtue of the Act respecting Voluntary and Extra-Judicial Oaths.

(Signed) MORRIS MOSS.

Declared by the said Morris Moss at the city of Victoria, the 19th day of November, A. D. 1889.

Before me,

(Signed) A. L. BELYEA,
Notary Public by Royal Authority in and for the Province of British Columbia.

[Inclosure 13 in No. 269.]

Statement of Claim.

By owner of schooner "Lily" against the Government of the United States of America for seizure in Behring's Sea on the 6th August, A. D. 1889.

333 sealskins (seized).
1,767 sealskins, balance of estimated catch by "Lily" for full season of 1889 in Behring's Sea.

2,100 sealskins, at 8 dollars	$16,800
24 Indian spears, at 4 dollars	96
2 sacks salt, at 2 dol. 50 c	5
Cost of obtaining new ship's papers	25
Legal and other expenses arising out of, and incidental to, such seizure	250
Total	17,176

And interest thereon at 7 per cent. per annum until paid.

(Signed) MORRIS MOSS.

392 This is the Statement of Claim referred to as marked (A) in the declaration of Morris Moss, made before me the 19th November, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

In the matter of the seizure of the sealing schooner "Lily" by the United States Revenue cutter "Richard Rush," on the 6th day of August, A. D. 1889.

I, John Reilly, of the city of Victoria, British Columbia, master mariner, do solemnly and sincerely declare that:

1. I am a master mariner, and was at the time of the occurrences hereinafter mentioned, and still am master of the schooner "Lily" of the Port of Victoria, British Columbia.

2. On the 6th day of August, A. D. 1889, whilst I was on board and in command of the said schooner "Lily," and she being then on a sealing expedition, and being in latitude 55° 29′ north, and longitude 166° 15′ west, and at a distance of about 66 miles from the nearest land, the United States Revenue cutter "Richard Rush" overhauled the said schooner.

3. I was first boarded by the First Lieutenant, who was armed, and who asked me how many skins I had on board. I replied that he should find out himself, and said that if he wanted to see the schooner's papers I would show them to him and would render him assistance should he want to search the schooner for contraband goods, but I would not acknowledge his right to seize me for sealing on the high seas.

4. The First Lieutenant then returned to the cutter, and in a short time returned accompanied by another boat of the cutter which was in charge of the Second Lieutenant.

5. They both came on board, and the First Lieutenant demanded of me the surrender of the schooner, and asking, at the same time, for the schooner's papers. This I at first declined to do, and the First Lieutenant said unless I gave the schooner's papers to him at once he would take them by force. I then gave him the schooner's papers, consisting of registry, coasting licence, and clearance.

6. The First Lieutenant then ordered both boats' crew to search the schooner, and they took from my schooner 333 sealskins, all in good order.

7. He then asked me if I would give him two sacks of salt. I told him it would be useless for me to refuse, as he could take them by force, so I told him to go ahead and help himself.

He then gave me two letters, the contents of which were unknown to me at the time, one of them being sealed, the contents of which is still unknown to me, the other certifying that he had seized the schooner "Lily" for violation of the United States laws, and taken possession of schooner's papers.

8. He then told me to proceed to Sitka, Alaska. I asked him if he wanted me to go to Victoria or Sitka, Alaska, to which he replied that he had nothing to say but simply told me his orders.

9. My crew, at this time, consisted of a mate, George McDonald, and three white men, and twenty-five Indian hunters. The Indian hunters said that they would not

proceed to Sitka, and to avoid further trouble I directed the schooner course to Victoria, and arrived here the 1st day of September at 7 o'clock P. M.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Ordinance, 1889.

(Signed) JOHN REILLY.

Declared at the city of Victoria, British Columbia, this 11th day of September, 1889. Before me,

(Signed) THOS. SHOTBOLT,
Justice of the Peace.

This is the statutory declaration of John Reilly, referred to as marked (X) in the declaration of Morris Moss, made before me the 19th November, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

No. 270.

Colonial Office to Foreign Office.—(Received January 20.)

DOWNING STREET, *January 18, 1890.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch and its
393 inclosures from the Governor-General of Canada, forwarding a claim for compensation from the owners of the schooner "Ariel" for loss incurred by reason of its being interfered with by the United States Revenue cutter "Richard Rush" while engaged in a sealing voyage in Behring's Sea.

I am, &c. (Signed) R. H. MEADE.

[Inclosure 1 in No. 270.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, December 31, 1889.*

MY LORD: I have the honour to transmit to your Lordship a copy of an approved Minute of the Privy Council submitting a declaration and formal statement of claim to compensation on behalf of the owners of the British schooner "Ariel" for loss incurred by reason of the said vessel being interfered with by the United States Revenue cutter "Richard Rush" while engaged in a sealing voyage in Behring's Sea.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 270.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on December 28, 1889.

On a Report, dated the 27th December, 1889, from the Minister of Marine and Fisheries submitting the appended declaration and formal statement of claim to compensation on behalf of the owners of the British schooner "Ariel," which vessel was, on the 30th day of July, 1889, while engaged in a sealing voyage in the Behring's Sea (so called) boarded by three officers from the United States Revenue cutter "Richard Rush." The officer searched and examined the schooner "Ariel," and questioned the master as to his voyage, crew, and catch; and also warned him against taking seals in the Behring's Sea under threat of seizure of the vessel and the arrest of himself and mate.

The Minister observes that the claim amounts to 9,498 dollars for loss incurred by reason of the said vessel being interfered with in the legitimate pursuit of her calling, and is advanced by Mr. Samuel W. Bucknam, of Victoria, British Columbia, managing owner and master of the said schooner "Ariel," on behalf of himself and Messrs. John M. Taylor and Bela R. Lawrence, of the city of St. John, New Brunswick, as joint owners of the vessel in question.

The Minister recommends that this claim be forwarded through the proper channel to Her Majesty's Government for transmission to the Government of the United States.

The Committee advise that your Excellency be moved to forward a copy of this Minute to the Right Honourable the Secretary of State for the Colonies, together with the papers mentioned herein.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 270.]

Declaration of Samuel W. Bucknam.

CANADA, *Province of British Columbia, City of Victoria.*

I, Samuel W. Bucknam, of the city of Victoria, in the Province of British Columbia, and Dominion of Canada, master mariner, do solemnly and sincerely declare as follows:

1. The hereinafter-mentioned schooner "Ariel" is a British vessel registered at the port of St. John, in the province of New Brunswick, one of the provinces of the Dominion of Canada.

2. The registered owners of the said schooner "Ariel" are John M. Taylor
394 and Bela R. Lawrence, both of the city of St. John aforesaid, who each own twenty-four shares thereof, and myself, who own the remaining sixteen shares thereof.

3. I am the managing owner and master of the said schooner "Ariel."

4. On the 9th day of February, 1889, A. D., I cleared the said schooner "Ariel" at the Customs at the said port of Victoria for a fishing and seal-hunting voyage in the North Pacific Ocean and Behring's Sea, and on the 11th day of said month sailed from said port of Victoria on such voyage.

5. On and for said voyage I was master of said "Ariel" and one Herman Smith was mate, and said "Ariel" on said voyage carried a crew of twenty-two men all told. The said schooner "Ariel" was equipped and provisioned for a full season's voyage.

6. On the 12th day of July following, the "Ariel" entered Behring's Sea. The sealskins which had been taken by the hunters on said schooner in the North Pacific Ocean had been shipped to Victoria before entering Behring's Sea, and no skins were on board on said 12th July.

7. The hunters on the "Ariel" began sealing on the 14th day of said July, and in the sixteen days following captured about 400 sealskins.

8. On the 30th day of said month of July, at about 6 o'clock in the morning, the United States Revenue cutter "Richard Rush" came alongside the "Ariel" and three officers from said "Richard Rush" boarded the "Ariel." The said officers examined and searched the "Ariel," asked the number of my crew, when I entered the sea, and how many sealskins I had on board, and warned and threatened me that if I was caught taking seals, or with fresh sealskins on board, the "Ariel" would be seized, and myself and mate placed under arrest. The said officers also told me that they had seized the schooners "Pathfinder," "Black Diamond," and "Minnie," and searched other vessels in the sea. The officers then left, and shortly after the cutter sailed away.

9. Fearing to remain in Behring's Sea lest I should lose my vessel and be myself put in prison, I at once sailed for one of the passes leading from the sea. On the 31st day of July I lost a boat with three men, and remained some days in the immediate vicinity in order to pick them up. On the 21st August the "Ariel" sailed out of Behring's Sea, homeward bound, with 844 sealskins on board. On the 2nd day of September the "Ariel" arrived at Victoria aforesaid, fully one month earlier than the usual time of arrival for sealers from Behring's Sea.

10. From the actual number of seals captured by the "Ariel" before being boarded as aforesaid and from the number actually captured by other sealing vessels, with about the same equipment of boats and men as the "Ariel," I believe that had the "Ariel" not been molested in Behring's Sea (and but for such boarding and threatening as aforesaid she certainly would have remained the full season) the said "Ariel" would have made a total catch of not less than 2,000 sealskins.

11. The selling price of sealskins at said Victoria on the said arrival of the "Ariel" and on the 1st October, about which time sealing vessels usually arrive at Victoria from a full season's voyage, was 8 dollars per skin.

12. I for myself, the said John M. Taylor, and the said Bella R. Lawrence, my co-owners in said schooner "Ariel," and likewise for the crew of the said "Ariel" on said voyage who were and are entitled to share in the total catch of sealskins by

said vessel for the full season aforesaid, claim damages of and from the Government of the United States of America for the illegal boarding as aforesaid of the said schooner, and for having by threats and intimidation broken up the voyage of said schooner "Ariel" and thereby caused the loss of at least 1,156 sealskins to the said vessel, her owners, and crew, and for legal and other expenses incidental to the preparation and submission of this claim.

13. Hereto annexed, marked (A), is a statement of such claim for damages as aforesaid.

And I, Samuel W. Bucknam aforesaid, make this solemn declaration conscientiously believing the same to be true and by virtue of the "Act respecting voluntary and extra-judicial oaths."

(Signed) SAMUEL W. BUCKNAM.

Signed and declared by the said Samuel W. Bucknam the 29th day of November, A. D. 1889.

Before me,

(Signed) ARTHUR L. BELYEA,
A Notary Public by Royal Authority in and for the Province of British Columbia.

[Inclosure 4 in No. 270.]

STATEMENT of claim against the United States of America *re* boarding and threats to seize the schooner "Ariel" in Behring's Sea, July 30, 1889:

2,000	sealskins	estimated catch for full season.	
844	"	number actually taken.	
1,156	"	balance of estimated catch, claimed in damages at 8 dollars..	$9,248
Legal and other expenses incidental to the making and submission of this claim			250
Total			9,498

And interest thereon at the rate of 7 per cent. per annum until paid.

This is the Statement of claim referred to in the declaration of Samuel W. Bucknam, made before me the 29th November, A. D. 1889.

(Signed) A. L. BELYEA, *Notary Public.*

No. 271.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 22.)

WASHINGTON, *January 9, 1890.*

MY LORD: With reference to my despatch of the 26th ultimo, I have the honour to inclose herewith copy of a Resolution which has been laid upon the table of the Senate by Senator Plumb in regard to the advertisement of the Secretary of the Treasury, inviting tenders for a new lease of the Alaska seal fisheries.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 271.]

Extract from the "Congressional Record" of January 7, 1890.

ALASKA SEAL FISHERIES.

Mr. Plumb.—I offer a Resolution, which I ask may lie upon the table, and be printed.

The Vice-President.—The resolution will be read.

The Chief Clerk read as follows:

"Whereas the Secretary of the Treasury has, by public advertisement, invited bids for leasing the Islands of St. Paul and St. George, in the Territory of Alaska, for a period of twenty years; and

"Whereas the law under which said proposal is issued was passed about twenty years since, and the circumstances and conditions existing in Alaska, and with reference to the seal industry, have materially changed during that period; and

"Whereas it has been charged upon the authority of a late Governor of Alaska that the Alaska Commercial Company, now occupying said islands under lease from the Government, has exercised its privileges oppressively and against the interests of both the natives and the Government; and

"Whereas said Company claims that it is the only person or organization which can successfully compete for the lease invited by the Secretary of the Treasury as aforesaid, and there is every reason to believe that under present legislation and conditions the lease proposed will be made to said Alaska Commercial Company substantially without competition. Therefore,

"*Resolved*,—That the Secretary of the Treasury be requested not to make a new lease of said islands until further action by Congress, or until the latest period made necessary by existing law, and that meanwhile he make full report to the Senate as to the manner in which the said Alaska Commercial Company has discharged its duties and obligations under the present lease, and also what additional legislation, if any, is necessary in order that the interests of the Government and those of the natives and citizens of Alaska may be more fully protected."

The Vice-President.—The Resolution will lie on the table and be printed.

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396 No. 272.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, January 23.)

WASHINGTON, *January 23, 1890.*

MY LORD: I have the honour to inclose herewith copy of a note which I have received from Mr. Blaine, containing the answer of the United States Government to the protest which Mr. Edwardes made by your Lordship's directions on the 12th October last against the seizure of Canadian vessels made by the United States Revenue cutter "Rush" in Behring's Sea.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 272.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, January 22, 1890.*

SIR: Several weeks have elapsed since I had the honour to receive through the hands of Mr. Edwardes copies of two despatches from Lord Salisbury,* complaining of the course of the United States Revenue cutter "Rush" in intercepting Canadian vessels sailing under the British flag, and engaged in taking fur seals in the waters of the Behring's Sea.

Subjects which could not be postponed have engaged the attention of this Department, and have rendered it impossible to give a formal answer to Lord Salisbury until the present time.

In the opinion of the President, the Canadian vessels, arrested and detained in the Behring's Sea, were engaged in a pursuit that is in itself *contra bonos mores*—a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States. To establish this ground, it is not necessary to argue the question of the extent and nature of the sovereignty of this Government over the waters of the Behring's Sea; it is not necessary to explain, certainly not to define, the powers and privileges ceded by His Imperial Majesty the Emperor of Russia in the Treaty by which the Alaskan territory was transferred to the United States. The weighty considerations growing out of the acquisition of that territory, with all the rights on land and sea inseparably connected therewith,

* See Nos. 228 and 229.

may be safely left out of view while the grounds are set forth upon which this Government rests its justification for the action complained of by Her Majesty's Government.

It cannot be unknown to Her Majesty's Government that one of the most valuable sources of revenue from the Alaskan possessions is the fur-seal fisheries of the Behring's Sea. These fisheries had been exclusively controlled by the Government of Russia, without interference and without question, from their original discovery until the cession of Alaska to the United States in 1867. From 1867 to 1886 the possession, in which Russia had been undisturbed, was enjoyed by this Government also. There was no interruption and no intrusion from any source. Vessels from other nations passing from time to time through Behring's Sea to the Arctic Ocean in pursuit of whales had always abstained from taking part in the capture of seals.

This uniform avoidance of all attempts to take fur seal in those waters had been a constant recognition of the right held and exercised first by Russia, and subsequently by this Government. It has also been the recognition of a fact now held beyond denial or doubt, that the taking of seals in the open sea rapidly leads to their extinction.

This is not only the well-known opinion of experts, both British and American, based upon prolonged observation and investigation, but the fact had also been demonstrated in a wide sense by the well-nigh total destruction of all seal fisheries except the one in the Behring's Sea which the Government of the United States is now striving to preserve, not altogether for the use of the American people, but for the use of the world at large.

The killing of seals in the open sea involves the destruction of the female in common with the male. The slaughter of a female seal is reckoned as an immediate loss of three seals, besides the future loss of the whole number which the bearing seal may produce in the successive years of life. The destruction which results from killing seals in the open sea proceeds, therefore, by a ratio which constantly and
397 rapidly increases, and insures the total extermination of the species within a very brief period. It has thus become known that the only proper time for the slaughter of seals is at the season when they betake themselves to the land, because the land is the only place where the necessary discrimination can be made as to the age and sex of the seal. It would seem then, by fair reasoning, that nations not possessing the territory upon which seals can increase their numbers by natural growth, and thus afford an annual supply of skins for the use of mankind, should refrain from the slaughter in open sea, where the destruction of the species is sure and swift.

After the acquisition of Alaska, the Government of the United States, through competent agents, working under the direction of the best experts, gave careful attention to the improvement of the seal fisheries. Proceeding by a close obedience to the laws of nature, and rigidly limiting the number to be annually slaughtered, the Government succeeded in increasing the total number of seals, and adding correspondingly and largely to the value of the fisheries. In the course of a few years of intelligent and interesting experiment, the number that could be safely slaughtered was fixed at 100,000 annually. The Company to which the administration of the fisheries was intrusted by a lease from this Government has paid a rental of 50,000 dollars per annum, and, in addition thereto, 2 dol. 62½ c. per skin for the total number taken. The skins were regularly transported to London to be dressed and prepared for the markets of the world, and the business had grown so large that the earnings of English labourers, since Alaska was transferred to the United States, amounts in the aggregate to more than 12,000,000 dollars.

The entire business was thus conducted peacefully, lawfully, and profitably; profitably to the United States, for the rental was yielding a moderate interest on the large sum which this Government had paid for Alaska, including the rights now at issue; profitably to the Alaskan Company, which, under Governmental direction and restriction, had given unwearied pains to the care and development of the fisheries; profitably to the Aleuts, who were receiving a fair pecuniary reward for their labours, and were elevated from semi-savagery to civilization, and to the enjoyment of schools and churches provided for their benefit by the Government of the United States; and, last of all, profitably to a large body of English labourers who had constant employment and received good wages.

This, in brief, was the condition of the Alaska fur-seal fisheries down to the year 1886. The precedents, customs, and rights had been established and enjoyed either by Russia or the United States for nearly a century. The two nations were the only Powers that owned a foot of land on the continents that bordered, or on the islands included within, the Behring's waters where the seals resort to breed. Into this peaceful and secluded field of labour, whose benefits were so equitably shared by the native Aleuts of the Pribyloff Islands, by the United States, and by England, certain Canadian vessels in 1886 asserted their right to enter and, by their ruthless course, to destroy the fisheries, and with them to destroy also the resulting indus-

tries which are so valuable. The Government of the United States at once proceed to check this movement, which, unchecked, was sure to do great and irreparal harm.

It was cause of unfeigned surprise to the United States that Her Majesty's Gove ment should immediately interfere to defend and encourage (surely to encourage defending) the course of the Canadians in disturbing an industry which had be carefully developed for more than ninety years under the flags of Russia and t United States, developed in such manner as not to interfere with the public rights the private industries of any other people or any other person.

Whence did the ships of Canada derive the right to do in 1886 that which th had refrained from doing for more than ninety years? Upon what grounds did H Majesty's Government defend in the year 1886 a course of conduct in the Behrin Sea which she had carefully avoided every since the discovery of that sea? what reasoning did Her Majesty's Government conclude that an act may be co mitted with impunity against the rights of the United States which had never be attempted against the same rights when held by the Russian Empire?

So great has been the injury to the fisheries from the irregular and destructi slaughter of seals in the open waters of the Behring's Sea by Canadian vessels, th whereas the Government has allowed 100,000 to be taken annually for a series years, it is now compelled to reduce the number to 60,000. If four years of th violation of natural law and neighbour's rights has reduced the annual slaughter seal by 40 per cent., it is easy to see how short a period will be required to work t total destruction of the fisheries.

The ground upon which Her Majesty's Government justifies, or at les
398 defends, the course of the Canadian vessels, rests upon the fact that they a committing their acts of destruction on the high seas, viz., more than 3 mari miles from the shore-line. It is doubtful whether Her Majesty's Government wou abide by this rule if the attempt were made to interfere with the pearl fisheries Ceylon, which extend 20 miles from the shore-line, and have been enjoyed by En land without molestation ever since their acquisition. England has felt authoriz to sell the fishery rights from year to year. Nor is it credible that modes of fishi on the Grand Banks, altogether practicable but highly destructive, would be jus fied or even permitted by Great Britain on the plea that the vicious acts were co mitted more than 3 miles from shore.

There are, according to scientific authority, "great colonies of fish on the Ne foundland banks. These colonies resemble the seats of great populations on lan They remain stationary, having a limited range of water in which to live and die In these great "colonies," it is according to expert judgment comparatively easy explode dynamite or giant powder in such manner as to kill vast quantities of fis and at the same time destroy countless numbers of eggs. Stringent laws have be necessary to prevent the taking of fish by the use of dynamite in many of the rive and lakes of the United States. The same mode of fishing could readily be adopt with effect on the more shallow parts of the banks, but the destruction of fish in pr portion to the "catch," says a high authority, might be as great as 10,000 to 1. Wou Her Majesty's Government think that so wicked an act could not be prevented, a its perpetrators punished, simply because it had been committed outside of the 3-m line?

Why are not the two cases parallel? The Canadian vessels are engaged in t taking of fur seal in a manner that destroys the power of reproduction, and insu the extermination of the species. In exterminating the species an article useful mankind is totally destroyed, in order that temporary and immoral gain may acquired by a few persons. By the employment of dynamite on the banks, it is r probable that the total destruction of fish could be accomplished, but a serious dir nution of a valuable food for man might assuredly result. Does Her Majest Government seriously maintain that the law of nations is powerless to prevent su violation of the common rights of man? Are the supporters of justice in all natic to be declared incompetent to prevent wrongs so odious and so destructive?

In the judgment of this Government, the law of the sea is not lawlessness. N can the law of the sea and the liberty which it confers and which it protects be p verted to justify acts which are immoral in themselves, which inevitably tend results against the interest and against the welfare of mankind. One step beyo that which Her Majesty's Government has taken in this contention and piracy fi its justification. The President does not conceive it possible that Her Majest Government could, in fact, be less indifferent to these evil results than is the G ernment of the United States. But he hopes that Her Majesty's Government w after this frank expression of views, more readily comprehend the position of t Government of the United States touching this serious question.

This Government has been ready to concede much in order to adjust all differen of view, and has in the judgment of the President already proposed a solution r only equitable, but generous. Thus far, Her Majesty's Government has declined

accept the proposal of the United States. The President now awaits with deep interest, not unmixed with solicitude, any proposition for reasonable adjustment which Her Majesty's Government may submit. The forcible resistance to which this Government is constrained in the Behring's Sea is, in the President's judgment, demanded not only by the necessity of defending the traditional and long-established rights of the United States, but also the rights of good morals and of good government the world over.

In this contention, the Government of the United States has no occasion and no desire to withdraw or modify the positions which it has at any time maintained against the claims of the Imperial Government of Russia. The United States will not withhold from any nation the privileges which it demanded for itself when Alaska was part of the Russian Empire. Nor is the Government of the United States disposed to exercise in those possessions any less power or authority than it was willing to concede to the Imperial Government of Russia when its sovereignty extended over them. The President is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia.

I have, &c.

(Signed) JAMES G. BLAINE.

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399 No. 273.

The Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *January 28, 1890.*

SIR: I have received your telegram of the 23rd instant, giving the substance of a note you had received from Mr. Blaine, in reply to the proposals made to the Government of the United States for the reopening of negotiations on the Behring's Sea question.

Her Majesty's Government will be prepared, when the text of the note reaches them, to give it their careful consideration, and to return a formal reply. So far as they are at present able to judge, it lays down doctrines in international law to which they would be unable to subscribe.

Meanwhile, they would be glad to know whether, in your opinion, it would be desirable that, in reply to Mr. Blaine's assurance that "the Government of the United States await with deep interest, not unmixed with anxiety, any suggestion for a reasonable adjustment of the points at issue between the two Governments," you should now make proposals in the sense explained in your despatch of the 1st November last, with the modifications which, after consultation with the Colonial Office, have been considered necessary.

The following are the terms which Her Majesty's Government would be prepared to authorize you to propose to Mr. Blaine:

(*a*) That the tripartite negotiation for securing a close time in Behring's Sea for the protection of the fur-seals should be resumed at Washington.

(*b*) That all well-founded claims for compensation on the part of British subjects for seizures in the past of their vessels by authorities of the United States should be dealt with by a separate negotiation as speedily as possible, but that it should be understood that Her Majesty's Government must be satisfied on this point before they can come to any settlement in regard to a close season.

(c) Lastly, that an assurance should be obtained from the Government of the United States that there shall be no further seizures of British ships in Behring's Sea while negotiations are proceeding.

I am, &c.

(Signed) SALISBURY.

No. 274.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, January 30.)

WASHINGTON, *January 30, 1890.*

MY LORD: I have the honour to inform your Lordship that I think it is important that I should know the total amount of compensation which is claimed for the seizures of British vessels in Behring's Sea up to date before making the proposals indicated in your Lordship's telegram of the 28th instant.

I have told Mr. Blaine that Her Majesty's Government must have satisfaction on this point before they can agree to any settlement on the other question.

Arguing from his stand-point he denies any right of compensation, but he is willing, for the sake of settling so grave a dispute, to consult the President of the United States as to a gratuitous offer of a lump sum in full satisfaction, in order that discussions on items involving principles on which the views of the two Governments appear irreconcilable may be avoided. He has, therefore, asked me to obtain the above information as soon as possible.

If this difficulty be surmounted, negotiations for a close season might be commenced at once, subject to adequate assurances against further seizures, which, I think, I might be able to obtain.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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400 No. 275.

Colonial Office to Foreign Office.—(Received February 1.)

DOWNING STREET, *January 31, 1890.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a claim to compensation on behalf of the owner of the British schooner "Kate," which vessel was ordered from the Behring's Sea in August last by an officer of the United States Revenue-cutter "Richard Rush."

I am to add that this claim had not previously been received, and Lord Knutsford has inquired, by telegraph, whether any further claims are to be expected.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 275.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, January 6, 1890.*

MY LORD: I have the honour to forward herewith, for transmission to the United States Government, a copy of an approved Report of a Committee of the Privy Council submitting declarations and formal statement of the claim to compensation *on behalf of* the owner of the British schooner "Kate," which vessel was on the

13th August last, while engaged on a sealing voyage, ordered from the Behring's Sea, under threat of seizure, by an officer of the United States Revenue-cutter "Richard Rush."

Your Lordship will observe that the claim amounts to the sum of 11,210 dollars for loss incurred by reason of the said vessel being interfered with in the legitimate pursuit of her calling, and is advanced by Mr. Charles Spring, of Victoria, British Columbia, as sole owner of the vessel in question.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 275.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 28th December, 1889.

On a Report, dated 27th December, 1889, from the Minister of Marine and Fisheries, submitting the appended declarations and formal statement of the claim to compensation on behalf of the owner of the British schooner "Kate," which vessel was on the 13th August, 1889, while engaged on a sealing voyage, ordered from the Behring's Sea (so-called) under threat of seizure by an officer of the United States Revenue-cutter "Richard Rush."

The Minister observes that the claim amounts to 11,210 dollars for loss incurred by reason of the said vessel being interfered with in the legitimate pursuit of her calling, and is advanced by Mr. Charles Spring, of Victoria, British Columbia, as sole owner of the schooner in question.

The Minister recommends that this claim be forwarded through the proper channel to Her Majesty's Government for transmission to the Government of the United States.

The Committee advise that your Excellency be moved to forward a copy of this Minute, together with the papers mentioned herein, to the Right Honourable the Secretary of State for the Colonies.

All of which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

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401 APPENDIX.

CANADA, *Province of British Columbia, City of Victoria.*

I, Neils Moss, of the city of Victoria, province of British Columbia, Dominion of Canada, master mariner, do solemnly and sincerely declare as follows:

1. The hereinafter mentioned schooner "Kate" is a British vessel, registered at the port of Victoria, British Columbia, and owned by Charles Spring, of the same place.

2. On or about the 1st of June, 1889, I cleared the said schooner "Kate," as master thereof, at the Customs-house, port of Victoria, for a fishing and hunting voyage in the North Pacific Ocean and Behring's Sea.

On the following day the "Kate" sailed on said voyage, fully equipped and provisioned for a whole season's voyage, and carrying a crew of four men.

3. On the west coast of Vancouver Island I engaged and took on board sixteen Indian hunters and sailed northward, entering Behring's Sea on or about the 20th July following, having then on board twenty-four seal-skins caught outside Behring's Sea.

4. A few days after entering the Sea the hunters began taking seals, and continued to do so up to the 13th August following, on which day the "Kate" had on board 630 seal-skins.

5. On said 13th August, at about 6 o'clock in the evening, the United States Revenue-cutter "Richard Rush" steamed up to the "Kate," within hailing distance, and an officer asked me what I was doing. I replied that I was fishing. He said that he had orders to order all schooners out of Behring's Sea if caught sealing, and if he saw me again in the sea he would seize me. The wind was blowing a gale at the time, and the cutter steamed away.

6. In consequence of what had been said to me by the officer of said cutter I at once determined to leave the Sea and not risk seizure, and on the 16th day of the said month of August the "Kate" sailed out of Behring's Sea by the Ounimak Pass, and sailing south reached Victoria about the 10th September, after some days' delay on the west coast of Vancouver Island.

7. Before being spoken by the said cutter, my intention was to remain in Behring's Sea until the 1st September, and with the hunters I had and average weather I verily believe that by the 1st September, had not the "Kate" been ordered to leave the Sea and threatened with seizure if seen again by the said cutter, the said "Kate" would have made a total catch of not less than 2,000 seal-skins. The best part of the sealing season in the said Sea was about beginning, and in the three days just preceding the said 13th August the hunters on the "Kate" brought in about 300 seal-skins.

I, Neils Moss, aforesaid, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting extra-judicial oaths."

(Signed) NEILS MOSS.

Signed and declared by the said Neils Moss, the 7th day of December, A. D. 1889, before me.

(Signed) ARTHUR L. BELYEA.
Notary Public by Royal Authority in and for the Province of British Columbia.

CANADA, *Province of British Columbia, Victoria.*

I, Charles Spring, of the city of Victoria, province of British Columbia, Dominion of Canada, trader and ship-owner, do solemnly and sincerely declare as follows:

1, I am the sole owner of the schooner "Kate," of the port of Victoria, aforesaid.

2. I have read the declaration of Neils Moss, the master of said schooner on a sealing voyage to the North Pacific Ocean and Behring's Sea in 1889, and verily believe the same to be true.

3. The market value of seal-skins at Victoria, aforesaid, at or about the time the "Kate" arrived from said voyage and since that time, was, and now is, 8 dollars per skin.

4. I, on my own behalf and on behalf of the crew of said schooner, claim damages of and from the Government of the United States of America for having, by force of threats and intimidation, compelled the master of said schooner on said voyage to leave Behring's Sea before the close of the sealing season, and thus depriving the crew and owner of said vessel of the benefits and profits of a full season's catch of seal-skins.

402 I also claim compensation for legal, personal, and other expenses in connection with the preparation and submission of this claim for damages, and hereto annexed marked (A) is a statement in detail of such claim.

And I, Charles Spring, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the "Act respecting extra-judicial oaths."

(Signed) C. SPRING.

Signed and declared by the said Charles Spring, the 13th day of December, A. D. 1889, before me.

(Signed) ARTHUR L. BELYEA,
A Notary Public by Royal Authority in and for the Province of British Columbia.

STATEMENT of Claim by Owner of schooner "Kate."

2,000 seal-skins, estimated catch by "Kate" for full season of 1889 in Behring's Sea.
630 less number taken up to 13th of August, 1889.

1,370 balance, at 8 dollars per skin	$10,960
Legal and other expenses in preparation and submission of this claim	250
Total	11,210

And interest thereon at 7 per cent. until paid.

This is the statement (A) of claim referred to in the declaration of Charles Spring, made before me the 13th day of December, 1889.

(Signed) A. L. BELYEA, *Notary Public.*

No. 276.

The Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *February 1, 1890.*

SIR: I have to acknowledge the receipt of your telegram of the 30th ultimo, asking to be informed what is the total amount of the compensation claimed on account of the British vessels seized up to date by the United States authorities in Behring's Sea.

You are authorized to inform Mr. Blaine that the claims which have been presented to Her Majesty's Government amount to about 500,000 dollars.

Her Majesty's Government would, of course, be willing to subject them to further examination, and probably considerable reductions would be found to be admissible.

Should differences of opinion arise as to the amounts to be awarded in the several cases, Her Majesty's Government might not be indisposed to agree that they should be referred to arbitration.

I am, &c.

(Signed) SALISBURY.

No. 277.

The Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *February 1, 1890.*

SIR: I have to inform you that the claims for compensation for the seizure of British vessels in Behring's Sea, submitted by the Canadian Government, have been revised at the Colonial Office, and should not exceed 400,000 dollars.

A summary of the various claims will be sent to you by mail this evening.

I am, &c.

(Signed) SALISBURY.

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403 No. 278.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *February 6, 1890.*

SIR: I am directed by the Marquis of Salisbury to state that his Lordship would be glad to be favoured with any observations which Lord Knutsford may have to offer on the reply of the United States Government to the protest of Her Majesty's Government against the seizures of Canadian sealing-vessels in Behring's Sea by the United States authorities.*

I am, &c.

(Signed) P. CURRIE.

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* See No. 272.

No. 279.

Colonial Office to Foreign Office.—(Received February 7.)

DOWNING STREET, *February 6, 1890.*

SIR: With reference to the last paragraph of the letter from this Department of the 31st ultimo, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, copies of telegraphic correspondence with the Governor-General of Canada respecting the claims on account of the seizures made by the United States Revenue cruizers in Behring's Sea.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 279.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *January 30, 1890.*

I should be glad to know if there are any further claims for compensation Behring's Sea, and what they amount to.

[Inclosure 2 in No. 279.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

(Received at the Colonial Office, February 4, 1890.)

There is one additional claim for compensation "Minnie," 16,460 dollars. I am sending summary of claims by post, and have forwarded a copy to Her Majesty's Minister at Washington for his information.

No. 280.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, February 8.)

WASHINGTON, *February 7, 1890.*

MY LORD: The terrible calamity which has befallen the family of the Secretary of the Navy and the renewed affliction in the family of the Secretary of State, both of which events I had the honour to report to your Lordship by telegram, have delayed the further progress of the negotiations respecting the Behring's Sea question. But as soon as was practicable after the receipt of your Lordship's telegram of the 1st instant I had an interview with Mr. Blaine and resumed the discussion on the subject of damages for the seizure of the Canadian vessels.

I informed him of the amount of the claims, at which he appeared quite astounded. After some general conversation as to the nature and character of the damages claimed, Mr. Blaine said that, viewing
404 the case as he did from the standpoint taken in his reply to the protest of Her Majesty's Government against the seizure of the vessels in question, he could never admit that his Government were justly liable to pay any damages at all. But he was willing to examine and assess the damages with me on the same principle as if the liability of

his Government were admitted, and then to refer the question of liability to some eminent jurisconsult for decision, on written statements and answers submitted by the two Governments respectively.

I objected that the whole Behring's Sea controversy would be raised in such an arbitration, which it appeared to me would of necessity involve grave questions of international law more fitting for solution by an areopagus of the Great Powers.

Mr. Blaine dissented from this view, urging that, as his Government had asserted no claim to the Behring's Sea as a *mare clausum*, no established principles of international law would be in dispute.

The Arbitrator would only have to find whether, under the circumstances, the United States Government ought to pay damages for the seizures. If he found in the affirmative, the damages previously assessed would be paid.

I observed that, apart from other objections, it seemed to me premature to talk of arbitration; and I reminded him that at our first interview (reported in my despatch No. 190 of the 1st November, 1889) he expressed the opinion that, if an arrangement in regard to a close time should be arrived at, his Government would not wish that private individuals who had acted *bonâ fide* in the belief that they were exercising their lawful rights, should be the victims of a grave dispute between two great countries which had happily been adjusted. I inquired why he was no longer disposed to adopt this friendly and equitable mode of treating the question.

Mr. Blaine replied that he was not aware, at that time, of the magnitude of the claims. He now learned for the first time that they were actually computed at nearly 500,000 dollars. Making all allowances for exaggerated demands, the claim was still too large to be dealt with in any other way than by an appropriation vote of Congress, and his Government were not prepared to propose a vote of such an amount unless the liability of the United States Government had been previously established by the award of an arbitrator.

If Her Majesty's Government were disposed to agree to an arbitration such as he had indicated he was quite willing to resume at once here the tripartite negotiation for a close time commenced in London, and concurrently to proceed with the necessary steps for the settlement of the question of damages.

I replied that at present my instructions were that Her Majesty's Government would come to no agreement for a close time unless they obtained satisfaction in the matter of damages, and that I thought they would only accept arbitration on the question of amount. But I promised Mr. Blaine to communicate his proposals to your Lordship without delay, and I have accordingly done so by telegram.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

No. 281.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, February 8.)

[Extract.]

WASHINGTON, *February 8, 1890.*

With reference to my telegram of yesterday's date, I have the honour to inquire whether your Lordship would see any objection to the tripartite negotiation for a close time for seals in Behring's Sea, and the

assessment of damages for the seizures of Canadian vessels, being commenced at once, leaving the question of arbitration in suspense until the results of both proceedings are known.

No. 282.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *February 10, 1890.*

SIR: With reference to my letter of the 3rd instant, I am directed by the Marquis of Salisbury to transmit herewith, to be laid before Secretary Lord Knutsford, a copy of a telegram from Sir J. Pauncefote,* stating that he has communicated the amount of the Behring's Sea claims to Mr. Blaine, who proposes to assess them provisionally, and then to refer the question of the liability of the United States Government to arbitration.

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I am to state that Lord Salisbury proposes, with Lord Knutsford's concurrence, to authorize Sir J. Pauncefote to commence at once the tripartite negotiations and the assessment of damages, leaving the question of arbitration in suspense until the results of both proceedings are known.

I am, &c. (Signed) P. CURRIE.

No. 283.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *February 10, 1890.*

SIR: I have received your telegram of the 8th instant, stating that you have communicated to Mr. Blaine the amount claimed on account of the seizures of Canadian vessels, and that his Excellency states that such a sum could only be paid on the award of an arbitration, followed by a vote of Congress. You add that he is willing to assess the claims provisionally, leaving the question of the liability of the United States Government to be eventually decided by arbitration.

I have to acquaint you that Her Majesty's Government are willing to proceed in accordance with Mr. Blaine's suggestion, and that you are authorized at once to commence negotiations for a tripartite Agreement respecting the establishment of a close season, and the assessment of damages sustained on account of the seizure of the vessels.

I am, &c. (Signed) SALISBURY.

No. 284.

Colonial Office to Foreign Office.—(Received February 11.)

[Extract.]

DOWNING STREET, *February 11, 1890.*

With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, for-

* See No. 280.

warding a Minute of the Dominion Privy Council on the subject of the Notice published by the United States Government calling for tenders for the lease of the Alaskan seal fisheries.

Although, as suggested by the Canadian Government, the granting of such a lease as that referred to would be calculated to complicate the contemplated negotiations, Lord Knutsford is disposed to think that the issue of the Notice need not be held to preclude the commencement of those negotiations, and his Lordship desires me to suggest that a copy of this despatch should be sent to Her Majesty's Minister at Washington, with instructions to communicate it to the United States Government, if he sees no objection.

[Inclosure 1 in No. 284.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, January 20, 1890.*

MY LORD: With reference to the proposals made by Mr. Bayard for a close season for seals in Behring's Sea, which was dealt with by my Government in the Orders in Council, copies of which were forwarded in my despatches of the 3rd August, 1888, and of the 11th November, 1889, I have the honour to forward herewith, for your Lordship's information, a copy of an approved Minute of the Privy Council, embodying a Report of the Minister of Marine and Fisheries, in regard to an advertisement recently issued by the Secretary of the Treasury for the United States, calling for tenders for the exclusive privilege of taking seals on the Islands of St. Paul and St. George of the Pribylov group in the Behring's Sea for a term of twenty years from the 1st May, 1890.

406 Your Lordship will observe that my Government is apprehensive that a lease such as that contemplated in the advertisement, under which the monopoly which has existed for the past twenty years would be continued regardless of any close season, may interfere with the proposed negotiations for a close season.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 284.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 15th January, 1890.

On a Report dated the 4th January, 1890, from the Minister of Marine and Fisheries, submitting in connection with the Minutes of Council of the 14th July, 1888, and 4th November, 1889, approved by his Excellency the Governor-General, upon the subject of the protection of fur-seals in the Behring's Sea, the appended advertisement recently issued by the Secretary of the Treasury for the United States of America, calling for tenders to be received up to the 23rd January instant for the exclusive privilege of taking fur-seals on the Islands of St. Paul and St. George, of the Pribylov group, in the Behring's Sea, commonly known as the Seal Islands, for a term of twenty years from the 1st May, 1890.

The Minister observes, in reference to the Honourable Mr. Bayard's proposal for international action in the establishment of a close season for seals in the Behring's Sea, extending from the 15th April to the 1st November, that the present advertisement would indicate on the part of the United States authorities the intention to continue that monopoly of the seal industry which has existed for the past twenty years, regardless of any close season applicable to the breeding grounds or rookeries of the seals.

The Minister notices that the only important difference between the terms of the proposed lease and those in the lease held by the Alaska Commercial Company, expiring in May 1890, is the limitation in the number of seals to be annually killed, which is stated to be 60,000, instead of 100,000, for the first year, the number to be fixed by the Treasury Department for succeeding years.

The Minister desires to point out that the months open to the lessees of the breeding grounds for killing operations, during the next twenty years, are June, July, September, and October, or four of the months in the middle of the close season proposed by the Honourable Mr. Bayard on behalf of the United States authorities.

It has already been contended by your Excellency's advisers that the dates then proposed by the Honourable Mr. Bayard were fixed to practically exclude from fishing operations all vessels likely to frequent these waters for that purpose.

The Minister observes that in support of the Honourable Mr. Bayard's proposal, it was contended that the British and other sealers were in the habit of killing and wounding the cow-seals with their young, and that therefore the necessity for the close season proposed by him was all the greater in the interest of the fishery; but upon this it may be said that the British vessels seized or expelled from the Behring's Sea, almost without exception, entered that sea, in the month of July, or during the height of the killing season of the Alaska Commercial Company, and as the female seals (according to the United States authorities) repair to the rookeries in June and July, where they soon after bring forth their young, the opportunity for sealing-vessels to kill females with pup in the open waters of the Behring's Sea must be very rare.

The Minister is of opinion that the attention of Her Majesty's Government should be called to this state of facts, and that they be informed that your Excellency's advisers are under the apprehension that the said lease may interfere with the proposed negotiations for a close season for Behring's Sea.

The Committee concurring, advise that your Excellency be moved to forward a copy of this Minute to the Right Honourable the Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

APPENDIX.

(See Inclosure in No. 268.)

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No. 286.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, February 11.)

WASHINGTON, *February 11, 1890.*

MY LORD: I communicated the substance of your Lordship's telegram to Mr. Blaine late yesterday evening, and he consented to your Lordship's proposal to commence the tripartite negotiation and the assessment of damages at once.

He said, at the same time, that he would communicate with the Russian Minister here on the subject and inform me of the result, with a view to common action by your Lordship and himself in inviting Russia to participate in the negotiations.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

No. 287.

Lord Knutsford to Lord Stanley of Preston.—(Received at Foreign Office, February 12.)

[Telegraphic.]

DOWNING STREET, *February 12, 1890.*

Instructions sent to Minister at Washington to commence negotiations for establishment of a close season, and provisionally for assessment of claims for damage; he will also be directed to communicate with you as to fixing time for Representative of Dominion Government *to assist* you at Washington.

No. 288.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *February 12, 1890.*

SIR: With reference to my despatch of the 28th ultimo, I have to request that you will bear in mind that all proposals from the United States Government for the settlement of the Behring's Sea question should be received by you *ad referendum.*

I am, &c.

(Signed) SALISBURY.

No. 289.

The Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *February 13, 1890.*

SIR: I transmit to you herewith copy of a telegram from the Governor-General of Canada relative to the Behring's Sea negotiations;* and I have to request you to communicate with the Governor-General of Canada with a view to settling the date on which the Representative of the Dominion, who will assist you in the negotiations, should arrive in Washington.

I am, &c. (Signed) SALISBURY.

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408 No. 290.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, February 14.)

WASHINGTON, *February 13, 1890.*

MY LORD: Mr. Blaine informed me to-day that M. de Struve, the Russian Minister here, has telegraphed to his Government to inquire whether they consent to his taking part in the negotiations on the subject of a close time for seals in Behring's Sea.

He hopes that your Lordship will, on your side, invite the Russian Government to participate in the proposed negotiations.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 291.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, February 14.)

WASHINGTON, *February 13, 1890.*

MY LORD: With reference to your Lordship's telegram of to-day, I have the honour to inform your Lordship that I have written to the Governor-General of Canada and have requested him to be prepared to

* No. 287.

send a Canadian Agent to Washington, in order to assist me in the forthcoming negotiations on the subject of a close time for seals in Behring's Sea.

I will not fail to telegraph to him as soon as I learn that the Russian Government have consented to participate in the negotiations.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 292.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *February 14, 1890.*

SIR: With reference to your despatch of the 9th ultimo, I transmit herewith, for your information, a copy of a letter from the Colonial Office,* covering a copy of a despatch from the Governor-General of Canada, forwarding a Minute of the Dominion Privy Council on the subject of the Notice published by the United States Government calling for tenders for the lease of the Alaska seal fisheries.

I am, &c.

(Signed) SALISBURY.

No. 293.

The Marquis of Salisbury to Sir R. Morier.—(Substance telegraphed.)

FOREIGN OFFICE, *February 14, 1890.*

SIR: I have to inform your Excellency that Her Majesty's Government have agreed with that of the United States that it is desirable to resume the negotiations, which ceased in 1888, between Great Britain, Russia, and the United States for the establishment of a close time for seals in the Behring's Sea.

I should be glad if your Excellency would invite the Russian Government to give instructions to their Representative at Washington to take part in negotiations for the purpose.

I am, &c. (Signed) SALISBURY.

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409 No. 294.

Sir R. Morier to the Marquis of Salisbury.†—(Received by telegraph, February 23.)

ST. PETERSBURGH, *February 23, 1890.*

MY LORD: On receipt of your Lordship's telegram of the 14th instant, instructing me inquire of the Russian Government whether they would consent to their Minister at Washington taking part in the negotiations respecting a close time for seal-fishing, which Her Majesty's Government and the United States Government are anxious to resume, I at once addressed a note to M. de Giers in this sense.

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* No. 284. † Substance sent to Sir J. Pauncefote by telegraph, February 22.

I have now the honour to transmit to your Lordship a copy of the reply which I have received from M. de Giers, stating that the Russian Minister at Washington has been instructed by telegraph to take part in the negotiations as desired by your Lordship.

I have, &c.

(Signed) R. B. D. MORIER.

[Inclosure in No. 294.]

M. de Giers to Sir R. Morier.

SAINT-PÉTERSBOURG, *le 9 (21) Février, 1890.*

M. L'AMBASSADEUR: J'ai reçu la note que votre Excellence a bien voulu m'adresser en date du 3 (15) courant au sujet de la reprise des négociations, interrompues en 1888, relativement à la fixation de la période durant laquelle la chasse aux otaries serait défendue.

Le Cabinet Impérial étant vivement désireux de mettre une fin aux discussions et aux malentendus, auxquels l'absence de tout règlement à ce sujet est de nature à donner lieu, le Ministre de Russie à Washington vient d'être autorisé par télégraphe à prendre part aux négociations en question.

En me faisant un devoir d'informer votre Excellence de ce qui précède, je saisis, &c.

(Signé) GIERS.

[Translation.]

ST. PETERSBURGH, *February 9 (21), 1890.*

M. L'AMBASSADEUR: I have received the note which your Excellency was good enough to address to me on the 3rd (15th) instant, on the subject of the resumption of the negotiations, broken off in 1888, relative to the fixture of a period during which the hunting of fur-seals should be prohibited.

The Imperial Cabinet earnestly desire to put an end to the discussions and misunderstandings to which the absence of any regulation on the subject is calculated to give rise, and the Minister of Russia at Washington has accordingly been authorized by telegraph to take part in the negotiations in question.

While making it my duty to communicate the above to your Excellency, I avail, &c.

(Signed) GIERS.

No. 295.

Colonial Office to Foreign Office.—(Received February 22.)

DOWNING STREET, *February 22, 1890.*

SIR: With reference to the letter from this Department of the 6th instant, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding the claim for compensation in the case of the British schooner "Minnie," which was seized by the United States Revenue cruizer "Richard Rush" in Behring's Sea last year.

This claim completes the list of claims on account of these seizures.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 295.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, February 8, 1890.*

MY LORD: With reference to the Deputy Governor's despatch of the 20th September last relative to the seizure in Behring's Sea of the British schooner "Minnie"

by the United States Revenue cutter "Richard Rush," I have the honour to transmit to your Lordship a copy of an approved Report of a Committee of the Privy Council, submitting formal statements and claim of the owner, Mr. Victor Jacobson, of Victoria, British Columbia, amounting to the sum of 16,460 dollars.

I have, &c.

(Signed) STANLEY OF PRESTON

[Inclosure 2 in No. 295.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 31st January, 1890.

On a Report dated the 16th January, 1890, from the Minister of Marine and Fisheries, submitting, with reference to the seizure in the Behring's Sea of the British schooner "Minnie" (the circumstances attending which were detailed in a Minute of Council dated the 14th September, 1889), formal statements and claims by the owner, Mr. Victor Jacobson, of Victoria, British Columbia, to compensation for loss incurred by reason of the seizure of the said vessel, and the forcible removal therefrom to the United States Revenue cutter "Richard Rush" of 420 seal-skins, and guns, spears, &c., as well as for the value of the catch for the balance of the season had the vessel not been interfered with in the legitimate pursuit of her calling, which claim aggregates 16,460 dollars:

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward copies hereof to the Right Honourable the Secretary of State for the Colonies, for transmission to the Government of the United States.

All which is respectfully submitted.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 295.]

Declaration of Victor Jacobson.

CITY OF VICTORIA, *Province of British Columbia, Dominion of Canada.*

I, Victor Jacobson, of the city of Victoria, in the Province of British Columbia, Dominion of Canada, master mariner, do solemnly and sincerely declare as follows:

1. That I am the owner and master of the British vessel "Minnie," 50 tons burden, registered at the port of Victoria aforesaid.

2. That in the first part of the month of May last I cleared the said "Minnie" at the port of Victoria for a sealing and hunting voyage in the North Pacific Ocean and Behring's Sea, and sailed immediately afterwards.

3. I had a crew of five white men and sixteen Indians, with two boats for white hunters, eight canoes for Indian hunters, and completely provisioned and equipped for a full season's hunting and sealing in northern waters.

4. On the 27th day of June last I entered the Behring's Sea, through Ounimak Pass, having then on board about 150 seal-skins caught on the way up from Victoria.

5. I immediately engaged in hunting, and sealing and continued to do so until the 15th July last, at which date I had on board 420 seal-skins in all.

6. On that day, the 15th July last, about 4 o'clock in the afternoon, I sighted a steamer bearing down upon us, which proved to be the United States Revenue steamer "Richard Rush." When within hailing distance, an officer on the said "Rush" called out to me to heave-to, and I did so; a boat was sent off from the "Rush" with two officers and ten or twelve men. The officer and five or six men came on board the "Minnie." The officer in command asked me for my papers, which I handed
411 to him. He then asked me when I entered the sea, and how many skins I had. I told him, and he went back to the "Rush." In a short time he returned and told me he would take all the skins, seize my vessel, and send her to Sitka in charge of a man from the "Rush." He then ordered his men to open the hatches and take all the seal-skins, 420 in number, on board the "Rush," which was done. He also took two guns and all the Indian spears. He then went back to the "Rush," but soon returned to my vessel with a man, and said to me that this man would take charge of the vessel, except navigating her, and take her to Sitka.

7. At the time of the seizure the "Minnie" was about 65 miles north-west by west from Ounimak Pass, and about the same distance from Ounimak Island, the nearest land.

8. An hour or so after the "Rush" went away the man left in charge showed me his written instructions from Captain Shepard, of the "Richard Rush;" as nearly as I can remember the directions he was to deliver the "Minnie" to the United States authorities at Sitka, and place her captain, myself, and mate under arrest. I at once made up my mind to stay where I was and catch what seals I could. Next morning I made new spears for the Indians and sent them out sealing. I remained in the sea up to the 16th August following, and in that time caught 486 seals and eight sea otters. I did not see anything of the "Rush" after the 15th July.

9. In the season of 1888 I was in command of the schooner "Mountain Chief," with ten Indian hunters only. The said "Mountain Chief" was in Behring's Sea less than twenty days, and in seventeen days' actual sealing the ten Indian hunters caught 937 seal-skins. On the said schooner "Minnie," in 1889, I had sixteen Indian hunters and two white hunters, and but for the interference of the United States Revenue cutter "Richard Rush," as aforesaid, the "Minnie" would have remained in Behring's Sea until about the 10th September, or a period of over two months.

10. I verily believe that if the "Minnie" had not been boarded, and the guns and spears taken as aforesaid, that the total catch of seal-skins by the hunters on board her for the season in Behring's Sea would not have been less than 2,500.

11. The value at Victoria aforesaid of seal-skins on or about the close of the sealing season for 1889, and for some time both before and after such close, was 8 dollars per skin.

I claim damages from the Government of the United States of America for the seizure of the said "Minnie" as aforesaid, and for the taking and detention of the said 420 seal-skins, and for 1,594 seal-skins, the balance of an estimated catch of 2,500, by the "Minnie" in Behring's Sea for the season of 1889, also for the guns, spears, and salt taken as aforesaid, and for legal and other expenses incidental to and arising out of such seizure, and the preparation and submission of this claim therefor, and interest thereon at 7 per cent. per annum until paid, a statement in detail of which claim is hereunto annexed.

And I, Victor Jacobson, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Act respecting extra-judicial oaths.

(Signed) VICTOR JACOBSON.

Declared by the said Victor Jacobson, at the city of Victoria, the 4th day of January, 1890.

Before me,

(Signed) ARTHUR L. BELYEA,
A Notary Public, by Royal authority, in and for the Province of British Columbia.

Statement of Claim.—Schooner "Minnie."

For damages for seizure, &c., in Behring's Sea, July 15, 1889, by United States Revenue cutter "Richard Rush."

420 seal skins taken from "Minnie" by "Richard Rush."
1,594 balance of estimated catch of 2,500 in Behring's Sea in 1889 by "Minnie," after deducting 486 brought to Victoria by "Minnie."

2,014 at 8 dollars per skin	$16,112
1 gun at 55 dollars, 1 gun at 10 dollars	65
10 Indian spears, at 3 dollars	30
2 sacks salt, at 1 dol. 50c	3
Legal and other expenses	250
Total claim	16,460

And interest on said amount at 7 per cent. per annum until paid.

412 This is the Statement referred to in the annexed declaration of Victor Jacobson, made before me the 4th day of January, 1890.

(Signed) ARTHUR L. BELYEA,
Notary Public.

No. 296.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, February 23.)

WASHINGTON, *February 22, 1890.*

MY LORD: With reference to your Lordship's telegram of to-day, I have the honour to report that I have telegraphed to Lord Stanley to inquire when I may expect the arrival in Washington of the Canadian Agent who is to assist me in the coming negotiations.

Mr. Blaine, M. de Struve, the Russian Minister, and I, held a preliminary and informal meeting this morning, at which the question of the area of the possible arrangement was discussed.

Mr. Blaine and M. de Struve then proposed the following area: "From a point on the 50th parallel north latitude due south from the southernmost point of the Peninsula of Kamtchatka; thence due east on the said 50th parallel to the point of the intersection with the 160th meridian of longitude west from Greenwich; thence north and east by a straight line to the point of intersection of the 60th parallel of north latitude with the 140th meridian of longitude west from Greenwich."

The 50th parallel, as your Lordship is aware, was the southernmost limit proposed by Mr. Bayard, and it need only be extended on the west to the Kamtchatka Peninsula, as M. de Struve states that there is no seal fishery in the Sea of Ochotsk.

I objected, however, to the limit on the east being extended beyond the 160th meridian of longitude, which was the limit proposed by Mr. Bayard, and is quite sufficient for the necessities of the case.

I should be much obliged if your Lordship would inform me whether you approve of the area now suggested by Mr. Blaine and M. de Struve, provided it be limited on the east by the 160th meridian.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 297.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *February 24, 1890.*

SIR: With reference to the letter from this Office of the 22nd instant, I am directed by the Marquis of Salisbury to transmit to you the accompanying copy of a telegram from Her Majesty's Minister at Washington,* giving the result of an informal conversation with the Secretary of State and the Russian Minister on the subject of an area within which the proposed arrangement relating to the Behring's Sea seal fisheries might be applied.

I am to request that, in laying this telegram before the Secretary of State for the Colonies, you will move his Lordship to favour Lord Salisbury, at his earliest convenience, with his opinion as to the answer which should be returned to it.

I am, &c.

(Signed) T. H. SANDERSON.

* No. 296.

No. 298.

Colonial Office to Foreign Office.—(Received February 28.)

DOWNING STREET, *February 27, 1890.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of
ur letter of the 24th instant, inclosing a telegram from Her Majesty's
Minister at Washington, in which he reports the result of a prelim-
inary and informal Conference on the subject of the area within
which the proposed close season for fur-seals in Behring's Sea
uld be confined, and requesting instructions as to the distance to the
twards at which the line limiting such area should be drawn.
am to observe, in reply, that in order to avoid unnecessary inter-
ence with British subjects, it is desirable that the area no less than
period of the close season should be confined within the strictest
its absolutely essential for the preservation of the seals from extermi-
ion; and the line proposed by Sir J. Pauncefote appears to Lord
utsford to include more of the open sea than is necessary, bearing in
d that the object of the negotiations is solely the sufficient preser-
ion of the seals, and not the maintenance in its integrity of the
nopoly claimed on behalf of the lessees of the Pribyloff Islands.
It appears to his Lordship that this object might be attained suffi-
ntly by fixing an area round these islands within which sealing
ould be prohibited during the period when the female seals are on
ese islands, or in their near neighbourhood, and also possibly in the
mediate vicinity of the passes of the Aleutian Islands.
The matter is one, however, on which the Secretary of State for the
olonies could not undertake to express any definite opinion without
at information which the Government of Canada is alone able to sup-
y; and his Lordship would suggest, in order to save time, that Sir J.
auncefote should be desired to confer with Mr. Tupper, the Dominion
inister of Marine and Fisheries, who, it is understood is now at
ashington, before committing Her Majesty's Government to any line
demarcation which the Government of Canada may hereafter object
as undesirable.

I am, &c. (Signed) JOHN BRAMSTON.

No. 299.

e Marquis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *February 28, 1890.*

SIR: I have had under my consideration, in communication, with the
cretary of State for the Colonies, your telegram of the 23rd instant,
porting the result of a preliminary discussion with Mr. Blaine and
e Russian Minister at Washington respecting the area within which
s proposed to prohibit seal fishing in Behring's Sea during a fixed
riod of each year.
Before coming to any decision with regard to the area now proposed,
rd Knutsford would be glad to know what view of it is taken by the
vernment of Canada.
I have accordingly to request you, in order to save time, to consult
e Canadian Minister of Marine, who is now at Washington, on the
bject, and to inform me of his opinion by telegraph.

I am, &c. (Signed) SALISBURY.

No. 300.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 5.)

WASHINGTON, *February 11, 1890.*

MY LORD: With reference to my despatch of the 7th instant, I have the honour to report that I had a further interview this day with the Secretary of State, at his request, on the subject of the proposed arbitration, and provisional assessment of damages.

Mr. Blaine said that it might be convenient if he were to put in writing, informally, his views as to the question to be arbitrated, and the procedure to be followed in regard to the assessment of damages.

He accordingly, in my presence, drew up a Memorandum, of which he afterwards handed me a copy. It is in the following terms:

"The first question to be arbitrated is whether, under the circumstances existing at the time, the Government of the United States was justified in arresting and detaining the vessels that entered the Behring's Sea for the purpose of killing fur-seals in the open sea.

"In the event of the arbitrator finding that the Government of the United States was justified in arresting and detaining the vessels before described, the case would be finished.

414 "In the event that the Government of the United States was found not to be justified, the second question would be the ascertainment of the amount of damages due to the Government of Great Britain. If that amount could not be amicably determined by the British Minister in Washington and the American Secretary of State, it would be left to the determination of the arbitrator, who should find the amount according to certain principles previously agreed to by both Parties."

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 301.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 5.)

WASHINGTON, *February 20, 1890.*

MY LORD: I have the honour to inclose an extract from the "New York Herald" of yesterday stating that the Russian Government has confirmed the renewal of the lease of the Russian seal islands in Behring's Sea to the Alaska Commercial Company.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 301.]

Extract from the "New York Herald" of February 19, 1890.

THE FUR-SEAL MONOPOLY.—RUSSIA RENEWS THE ALASKA COMPANY'S LEASE OF ISLANDS IN BEHRING'S SEA.

[By Telegraph to the "Herald."]

SAN FRANCISCO, *February 18, 1890.*

A private despatch received here to-day announces that the Imperial Russian Government has confirmed the renewal of the lease of the Russian seal islands in *Behring's Sea to* the Alaska Commercial Company of this city. This action is under-

stood to be based upon a persuasion that the Government of the United States will take a similar course with regard to its own seal islands, and that the control of the seal-fur industry may thus be vested in a single management.

INCORPORATION OF AN ALASKA COMMERCIAL COMPANY IN NEW YORK.

ALBANY, NEW YORK, *February 18, 1890.*

The New York Commercial Company of Alaska (Limited), formed with a capital of 1,000,000 dollars, for carrying on mining, fishing, building, and commercial enterprises generally in the Territory of Alaska, filed a certificate of incorporation with the Secretary of State to-day. The incorporators of the Company are William B. Pope, Thaddeus D. Bradford, William T. Davis, and John H. Droge, of New York; and Henry S. Tibbey, of Unga Island, Alaska.

No. 302.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *March 8, 1890.*

SIR: I have received your despatch of the 7th ultimo, reporting a conversation which you had held with Mr. Blaine on the subject of damages for the seizure of Canadian vessels by the United States Revenue cutters in Behring's Sea.

Your language on the occasion is approved.

I am, &c.

(Signed) SALISBURY.

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No. 303.

Colonial Office to Foreign Office.—(Received March 15.)

DOWNING STREET, *March 14, 1890.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of copies of despatches from Her Majesty's Minister at Washington respecting communications which have passed with the United States Secretary of State as to the compensation for the seizure of British vessels in Behring's Sea.*

I am to observe that the terms on which Mr. Blaine would propose to submit the question of compensation to arbitration, as stated in his Memorandum, taken together with his further statement that no established principles of international law would be brought into dispute, appear to indicate that he would abandon, before the arbitrator, not only the *mare clausum* doctrine, but also the claim of an exclusive right of fishery in Behring's Sea, and would rely on the contention that the United States are charged with the duty of repressing acts done in that sea, *contra bonos mores*, to the injury of a fishery open to all nations. Lord Knutsford cannot doubt that an impartial arbitrator, whether all the three issues or only one of them be placed before him, would confirm the opinion that the owners are entitled to compensation for the ill-treatment to which they have been subjected.

Lord Knutsford, however, desires me to observe that the question whether recourse should be had to arbitration on this subject, and the precise issues to be submitted to an arbitrator, are matters on which it is important to ascertain the views of the Government of Canada.

I am, &c.

(Signed) JOHN BRAMSTON.

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* Nos. 280 and 300.

417 No. 308.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, March 18.)

[Extract.]

WASHINGTON, *March 18, 1890.*

With reference to my despatch of the 1st instant, I have the honour to report that the Behring's Sea negotiations have come to a deadlock, owing to a conflict of evidence in regard to the necessity for a close season for the fur-seal fishery.

Mr. Blaine and M. de Struve both agree that the preservation of the fur-seal species is the sole object in view; but they insist, at the same time, that it will necessitate the total exclusion of sealing vessels from Behring's Sea during the close season.

Mr. Tupper, on the other hand, maintains that no close season is necessary at all; but I believe the Canadian Government are ready to give way to some extent on this point.

Mr. Blaine says that the arguments on his proposal are exhausted, and has called upon me to put forward a counter-proposal.

I have accordingly prepared a draft Convention, which, I venture to state, offers the only prospect of a possible arrangement.

Mr. Tupper left for Ottawa last night, taking with him a copy of it, which he will submit for the consideration of the Canadian Government.

I will not fail to telegraph the reply of the Canadian Government to my proposal, and shall then await further instructions from your Lordship.

In the meanwhile, negotiations are suspended.

No. 309.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *March 19, 1890.*

SIR: Her Majesty's Government approve your proceedings in connection with the negotiations for the establishment of a close season in the Behring's Sea seal fishing, as reported in your despatch of the 1st instant.

I am, &c. (Signed) SALISBURY.

No. 310.

Colonial Office to Foreign Office.—(Received March 20.)

DOWNING STREET, *March 19, 1890.*

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a Schedule of the claims for compensation for damages resulting from the seizure of British vessels in Behring's Sea.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 310.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, February 3, 1890.*

MY LORD: I had the honour to send to your Lordship to-day the following telegraphic message in code:

"One additional claim for compensation 'Minnie' 16,460 dollars. Summary of claims by post. Have sent copy. for his information, to Minister at Washington."

I have now the honour to transmit a copy of a Privy Council Order on which my telegram was based. A copy of this Minute has been forwarded to Her Majesty's Minister at Washington, for his information.

I have, &c.

(Signed) STANLEY OF PRESTON.

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418 [Inclosure 2 in No. 310.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 3rd February, 1890.

The Committee of the Privy Council have had before them the cablegram from the Right Honourable the Secretary of State for the Colonies, dated the 30th January, 1890, of which the substance is as follows:

"Are there any further claims for compensation for Behring's Sea seizures, and can you state their amount?"

The Minister of Marine and Fisheries, to whom the cablegram was referred, observes that my despatch of the 6th January inclosed a copy of an Order in Council of the 28th December, 1889, in reference to the compensation claimed by the owners of the "Kate," and that a claim on behalf of the owners of the "Minnie" has, since the date of the despatch alluded to, been formally made and forwarded to the Right Honourable the Secretary of State for the Colonies.

The Minister further, in order that no claim relating to the seizures in Behring's Sea may escape the attention of Her Majesty's Government, recommends that the appended reply to the above message be forwarded by your Excellency to the Right Honourable the Secretary of State for the Colonies, for the information of Her Majesty's Government.

The Committee advise that your Excellency be moved to cable the reply as herewith submitted.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

APPENDIX.

Proposed Reply from his Excellency the Governor-General to the Right Honourable the Secretary of State for the Colonies.

The following claims have reached my Government, and have been duly forwarded:

1886. "Carolena," 40,739 dollars; and personal claims, 5,000 dollars.
1886. "Onward," 39,181 dollars; personal claims, 6,500 dollars.
1886. "Thornton," 43,576 dollars; personal claims, 6,500 dollars.
1886. "Favorite," 7,000 dollars.
1887. "Anna Beck," 43,764 dollars; personal claims, 3,000 dollars.
1887. "Sayward," 42,481 dollars; personal claims, 3,000 dollars.
1887. "Dolphin," 59,950 dollars; personal claims, 3,635 dollars.
1887. "Grace," 57,964 dollars; personal claims, 2,000 dollars.
1887. "Ada," 34,518 dollars; personal claims, 2,000 dollars.
1887. "Alfred Adams," 20,433 dollars.
1889. "Black Diamond," 17,185 dollars.
1889. "Pathfinder," 26,765 dollars.
1889. "Juanita," 14,695 dollars.
1889. "Lily," 17,167 dollars.
1889. "Triumph," 19,674 dollars.
1889. "Ariel," 9,498 dollars.
1889. "Kate," 11,210 dollars.
1889. "Minnie," 16,460 dollars.

No. 311.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *March 20, 1890.*

SIR: With reference to my letter of the 15th instant, I am directed by the Marquis of Salisbury to transmit herewith, for the information of Secretary Lord Knutsford, a copy of a telegram from Sir J. Pauncefote,* reporting on the present state of the negotiations on the Behring's Sea question.

I am at the same time to say that, before taking any further action in regard to this telegram, Lord Salisbury proposes to wait for information from Sir J. Pauncefote as to whether the Canadian Government
419 are disposed to take a favourable view of the Convention which he has drafted for the protection of the fur seals resorting to Behring's Sea.

I am, &c.

(Signed) P. CURRIE.

No. 312.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received by telegraph, March 26.)

WASHINGTON, *March 26, 1890.*

MY LORD: I have the honour to report that some of to-day's newspapers announce the publication of the Proclamation relating to the seal fishery in Behring's Sea, which the President of the United States is bound by law to issue "at a timely season in each year."

Mr. Blaine told me a few days ago that it was ready for publication.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 313.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 31.)

WASHINGTON, *March 21, 1890.*

MY LORD: In continuation of my despatch of the 1st instant relating to the Behring's Sea fisheries, I have the honour to report that the first formal meeting of the Conference between the Secretary of State, M. de Struve (the Russian Minister), and myself took place on the 3rd instant, and that Mr. Tupper, the Canadian Minister of Marine and Fisheries, was present on the occasion.

A long discussion took place on the subject of a close season. Mr. Blaine and M. de Struve contended that not only was a close season indispensable for the preservation of the fur-seal species, but that no close season would be effectual for securing the object in view unless during the period of its duration all sealing vessels of whatever nationality were absolutely excluded from the Behring's Sea.

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* No. 308.

The Russian Minister stated that since the date of our preliminary meeting of the 22nd ultimo (reported by me to your Lordship on the same day), at which a line of demarcation for a close season had been informally proposed by Mr. Blaine and himself, he had received instructions from his Government to press that the line should commence on the west from a point at the southern extremity of the Island of Saghalien, in order to protect the rookery or breeding place on Robin Reef in the Sea of Ochotsk.

On the other hand, Mr. Blaine seemed disposed to agree that on the east the line should terminate at the 160th meridian of longitude west from Greenwich, as originally proposed by the United States Government.

Mr. Tupper, who was then invited to express his views, strongly contended that a close season was not necessary for the preservation of the fur-seal species. All that was really required for that purpose was to use greater vigilance for the protection of the rookeries against the destruction of seals on shore by marauding parties. This would be effectually carried out by the United States Government by the employment of additional cruizers, without necessitating the exclusion of all sealing vessels from the Behring's Sea for any period.

A great deal of argument ensued on the evidence of particular witnesses and the reports of officials and experts, in the course of which Mr. Blaine laid great stress on a passage in the Report of Mr. Mowatt, Inspector of Fisheries for British Columbia, which is cited in Mr. Bayard's despatch to Mr. Phelps of the 7th February, 1888. It is to the effect that the enormous catch of fur seal in Behring's Sea by schooners from San Francisco and Victoria consisted principally of "cows" or female seals, and that, in view of the increase of vessels fitting out every year, there was reason to apprehend, in the opinion of the writer, that unless some measure of protection were adopted, the fur-seal fishery would soon be depleted.

It was agreed to adjourn the meeting until we had examined a Memorandum of the evidence relied on by the United States Government which Mr. Blaine had promised to furnish, as reported in my despatch of the 1st instant.

This Memorandum was delivered the same day, and Mr. Tupper immediately prepared a counter-Memorandum in support of his views.

Both documents are in course of printing, and copies will be transmitted to your Lordship as early as practicable.

420 They unfortunately present so great a divergence of opinion on all the facts relating to the fur-seal fishery in the Behring's Sea, that Mr. Blaine decided to invite M. de Struve and myself to an interview on the 12th instant, at which he stated that the perusal of Mr. Tupper's Memorandum had convinced him of the hopelessness of arriving at a solution that would be satisfactory to Canada. He said he had exhausted all the arguments in favour of the proposal made by the United States Government two years ago, and he called on me to make a counter-proposal on behalf of Her Majesty's Government.

I replied that I was reluctant to make a counter-proposal without previous reference to your Lordship, but that I did not take so despondng a view of the situation as he appeared to do.

It had been admitted and agreed that the sole object of the proposed arrangement was the preservation of the fur-seal species, and not the gain or benefit of any particular Government or body of persons. I did not believe that Canada, in view of the conflict of evidence, would object to a reasonable close season, at all events by way of experiment, and with a view to the further elucidation of the question.

The difficulty was to fix the limits of a close season both as to its area and its duration. Mr. Bayard in his despatch to Mr. White of the 1st May, 1888, had distinctly stated that only such a period is desired "as may be requisite for the end in view." This equally applied to the question of area.

It would be strange therefore if no machinery could be devised to surmount the difficulty.

I then stated that I had prepared a scheme which provided such machinery, and that I had actually put it in the form of a draft Convention which I proposed to refer to your Lordship, and, if approved, to lay before the Conference as the counter-proposal of Her Majesty's Government.

I then explained the general provisions of the scheme.

The draft Convention lays down in the first place that there shall be a close season, but that in view of the conflict of evidence which has arisen as to what should be its area and duration, a Commission of experts shall be appointed to report on the matter, and that if on the examination of their Report the three Governments should still be unable to settle the conditions of a close season, the points in difference shall be referred to the arbitration of an impartial Government, whose award shall finally determine the close season for the purposes of the Convention.

The draft also provides for the immediate adoption and enforcement of a provisional close time as to which the High Contracting Parties would probably be disposed to be more yielding by reason of its temporary and experimental character, and in view of the prospect of an ultimate and impartial decision on the questions in dispute.

The other Articles of the draft provide for the enforcement of the close season, the trial of offenders, the duration of the Convention, and the accession thereto of other Powers.

Mr. Blaine and M. de Struve declined to look at the draft or to express any opinion on the scheme until it should be formally placed before them, but they listened to its details with evident interest, and I observed no indication of serious dissent or unfavourable criticism on their part.

I am not without hope therefore that if its general features should meet with your Lordship's approval, it may form a basis of arrangement, and present an issue out of the difficulties of the situation.

Mr. Tupper, who concurs generally in the draft, has returned to Ottawa to consult his Government thereon, and the next meeting of the Conference is adjourned pending the receipt of your Lordship's further instructions.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 314.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 31.)

WASHINGTON, *March 21, 1890.*

MY LORD: I have the honour to inclose a cutting from the New York "Tribune" of the 19th instant, containing an article on the Alaska Sea fisheries, headed "Rights in Behring's Sea."

I have been unable to discover that any American jurist has ever ventured to assert that the United States can claim any special
421 jurisdiction over Behring's Sea, or any exclusive right of fishery therein, or to support the extraordinary argument that the correspondence between the Russian and United States Governments in 1823 had no reference to Behring's Sea.

On the other hand, the fallacy of the views put forward in the "New York Tribune" has been demonstrated, as your Lordship is aware, by two eminent American writers, Professor Rayner, in his letters to the "New York Evening Post" of the 27th June and 18th October, 1889, and Professor Angel, in his article in the "Forum" of November, 1889.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 315.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *April 3, 1890.*

The principle of the draft Convention has my full approval.

No. 316.

Colonial Office to Foreign Office.—(Received April 9.)

DOWNING STREET, *April 9, 1890.*

SIR: In reply to your letter of the 20th ultimo, forwarding copy of a telegram from Her Majesty's Minister at Washington, on the present state of the negotiations on the Behring's Sea question, I am directed by Lord Knutsford to acquaint you, for the information of the Marquis of Salisbury, that he concurs in his Lordship's proposal to await information as to the views of the Canadian Government on the subject of the Convention which Sir J. Pauncefote has suggested before taking any action in the matter.

I am, &c.

(Signed) R. H. MEADE.

No. 317.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 10.)

WASHINGTON, *March 31, 1890.*

MY LORD: I have the honour to inclose herewith a newspaper extract relative to the detention of the British sealing-vessel "Pathfinder" at Portland, Oregon.

She was seized last year in Behring's Sea, and ordered to Sitka in charge of one seaman. She escaped to Victoria, and has been engaged in sealing till compelled to go into Portland Bay for repairs, where she

was detained till released by instructions from the Secretary of the Treasury dated the 29th instant, on the ground that the Federal Courts of Alaska have exclusive jurisdiction over all violations of the Seal Fishery Laws.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 317.]

Extract from the "New York Tribune," of March 30, 1890.

PORTLAND, OREGON, *March 29, 1890.*

The British sealing schooner "Pathfinder," Captain Arthur Morgan, of Victoria, was towed into port last night by the United States Revenue cutter "Corwin." The schooner was found at Neagh Bay, Washington, with rudder disabled, and taken into custody by the cutter. The "Pathfinder" is not seized, but detained pending instructions from the Department at Washington. The schooner is one of the sealing-vessels seized last year in Behring's Sea by the cutter "Richard Rush," and ordered to Sitka, Alaska, in charge of one seaman as a prizemaster. She escaped to Victoria, and has since been engaged in sealing off the American and British coasts till yesterday, when compelled to go into the bay for repairs. Captain Hooper, of the "Corwin," holds the vessel pending the decision of the Department relative to whether the vessel is amenable to the Law regarding sealing in Behring's Sea, for which she was seized.

422 The "Pathfinder" sailed from Victoria two months ago; she secured 150 seals off the coast of Vancouver and Washington.

Particulars of the detention have been sent to the Secretary of the Treasury at Washington, also to the Department at Ottawa, Canada.

WASHINGTON, *March 29, 1890.*

The following telegram was sent by Assistant Secretary Tichenor this afternoon to the Collector of Customs at Port Townsend, Washington:

"In the year 1887 the Department, in a case quite similar, but in some respects stronger for the Government, decided that the vessel could not be held. In view of that precedent, without now reviewing the principles upon which it proceeded, I direct the release of the 'Pathfinder.'"

The precedent referred to in the above telegram was the case of the schooner "Ellen." That vessel was seized in Behring's Sea in 1887, by Captain Shepard, of the Revenue Marine Service, for violation of the Seal Fishery Laws, and was ordered to Sitka, Alaska, for trial. Instead, however, her captain took her to San Francisco. She was there seized by the Customs officers, but was subsequently released by direction of Secretary Fairchild, on the ground that the Federal officers at San Francisco had no jurisdiction over offences committed in the District of Alaska. Under this ruling the Federal Courts of Alaska will have exclusive jurisdiction over all violations of the Seal Fishery Laws.

No. 318.

Colonial Office to Foreign Office.—(Received April 18.)

DOWNING STREET, *April 14, 1890.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, copies of telegraphic correspondence with the Governor-General of Canada respecting the proposed Convention for the establishment of a close time for seals in Behring's Sea.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 318.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *April 11, 1890.*

Telegraph whether, as I hope, your Government has agreed to Minister at Washington's proposed Behring's Sea Convention.

[Inclosure 2 in No. 318.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

(Received April 12, 1890.)

Minister of Marine has returned to Washington with our alternative proposal.

We are quite ready to acquiesce in general principle of protecting seal life, but are most anxious that inquiry by experts may precede permanent Treaty, as we believe the facts to be incorrect on which United States proposals are based. We suggest *modus vivendi* for not more than two years, during which experts should determine the facts on which permanent Treaty can be based.

Cannot answer your question till we hear, which we expect to do soon, from Washington. No disposition here to raise unnecessary difficulties, but if we get no better terms than those proposed by United States, seal fishery will be seriously affected.

No. 319.

Colonial Office to Foreign Office.—(Received April 19.)

DOWNING STREET, *April 19, 1890.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a telegram
423 from the Governor-General of Canada, reporting that his Government accept with some modifications, Sir J. Pauncefote's second draft Convention for establishing a close season for fur seals in Behring's Sea.

Lord Knutsford will be glad to have a copy of the second draft, with the modifications suggested by the Dominion Government, if it has been telegraphed by Sir J. Pauncefote.

I am, &c. (Signed) JOHN BRAMSTON.

[Inclosure in No. 319.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

APRIL 18, 1890.

The Prime Minister told me this afternoon that his Cabinet will accept Sir J. Pauncefote's second draft with some modifications, which, in my opinion, do not injure it. I have telegraphed to tell him so. I hope grave difficulty is now over so far as Canada is concerned.

No. 320.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 21.)

[Extract.]

WASHINGTON, *April 11, 1890.*

I have the honour to report that the Honourable Mr. Tupper, the Dominion Minister of Marine and Fisheries, called on me yesterday on his return from Ottawa.

He informed me that the Canadian Government objected to my proposed draft of a Convention for the settlement of the Behring's Sea question in so far as it admitted the necessity of a close season, and provided, although provisionally, for the exclusion of sealers within a certain radius round the breeding islands.

I understand that the principal objection of the Canadian Government to the radius clause is that it would practically have the effect of an admission that it was necessary for the preservation of the fur-seal species; and they maintain the position that no interference with pelagic sealing is necessary for the purpose in view.

I am anxious that the proposal of Her Majesty's Government should be practical and liberal, and such as will commend itself to the sense of justice and impartiality of all other nations. On the other hand, I need hardly say how anxious I am to give the utmost effect to the views and wishes of the Dominion Government in this negotiation. I have therefore prepared a new draft Convention, of which I inclose copy, and in which I have followed, as closely as is consistent with the views above expressed, the lines indicated by the Canadian Government.

I am sending a copy of the new draft this day to Lord Stanley, together with a copy of this despatch.

In the meanwhile, I should be grateful if your Lordship would inform me by telegram whether you concur in the views I have expressed and approve of the new draft which I have prepared, or whether you desire that I should adopt the first draft as amended by the Dominion Government, as the counter-proposal of Her Majesty's Government.

(For draft Convention as proposed to United States Government, see Inclosure 2 in No. 326.)

No. 321.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 25.)

WASHINGTON, *April 15, 1890.*

MY LORD: With reference to my despatch of the 21st ultimo, I have the honour to inclose herewith copies of the correspondence relating to the fur-seal fisheries in Behring's Sea, which I have just received
424 from Mr. Blaine, and which consists of the evidence furnished by experts and officers of the United States, and the counter-evidence furnished in reply thereto by Mr. Tupper, on the question of the extermination of the fur-seal species by the killing of seals in the open sea.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 321.]

CORRESPONDENCE RELATING TO FUR-SEAL FISHERIES IN BEHRING'S SEA.

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, March 1, 1890*

MY DEAR SIR JULIAN: I have extracted from official documents and appended hereto a large mass of evidence, given under oath by professional experts and officers of the United States, touching the subject upon which you desired further proof, namely, that the killing of seals in the open sea tends certainly and rapidly to the extermination of the species. If further evidence is desired, it can be readily furnished.

I have, &c. (Signed) JAMES G. BLAINE.

From the official Report made to the House of Representatives in 1889:

In former years fur-seals were found in great numbers on various islands of the South Pacific Ocean, but after a comparatively short period of indiscriminate slaughter the rookeries were deserted, the animals having been killed or driven from their haunts; so that now the only existing rookeries are those in Alaska, another in the Russian part of Behring's Sea, and a third on Lobos Island, at the mouth of the River Plate in South America.

All these rookeries are under the protection of their several Governments.

The best estimate as to the number of these animals on the Alaska rookeries places it at about 4,000,000; but a marked diminution of the number is noticed within the last two or three years, which is attributed by the testimony to the fact that unauthorized persons during the summers of 1886, 1887, and 1888 had fitted out expeditions and cruized in Alaskan waters, and by the use of fire-arms destroyed hundreds of thousands of these animals without regard to age or sex.

The law prohibits the killing of fur-seals in the Territory of Alaska or the waters thereof, except by the lessee of the Seal Islands, and the lessee is permitted to kill during the months of June, July, September, and October only; and is forbidden to kill any seal less than 1 year old, or any female seal, "or to kill such seals at any time by the use of fire-arms, or by other means tending to drive the seals away from those islands." (Revised Statutes, section 1960.)

Governor Simpson, of the Hudson Bay Company, in his "Overland Journey Round the World," 1841–42, p. 130, says:

"Some twenty or thirty years ago there was a most wasteful destruction of the seal, when young and old, male and female, were indiscriminately knocked in the head. This imprudence, as any one might have expected, proved detrimental in two ways. The race was almost extirpated, and the market was glutted to such a degree, at the rate for some time of 200,000 skins a-year, that the prices did not even pay the expenses of carriage. The Russians, however, have now adopted nearly the same plan which the Hudson Bay Company pursues in recruiting any of its exhausted districts, killing only a limited number of such males as have attained their full growth, a plan peculiarly applicable to the fur-seal, inasmuch as its habits render a system of husbanding the stock as easy and certain as that of destroying it."

In the year 1800 the rookeries of the Georgian Islands produced 112,000 fur-seals. From 1806 to 1823, says the "Encyclopædia Britannica," "the Georgian Islands produced 1,200,000 seals, and the Island of Desolation has been equally productive." Over 1,000,000 were taken from the Island of Mas-á-Fuera and shipped to China in 1798-99. (Fanning's "Voyages to the South Sea," p. 299.)

In 1820 and 1821 over 300,000 fur-seals were taken at the South Shetland Islands, and Captain Weddell states that at the end of the second year the species had there become almost exterminated. In addition to the number killed for their furs, he estimates that "not less than 100,000 newly-born young died in consequence of the destruction of their mothers." (See Elliott's Report, 1884, p. 118.)

In 1830 the supply of fur-seals in the South Seas had so greatly decreased that the vessels engaged in this enterprise "generally made losing voyages, from the fact that those places which were the resort of seals had been abandoned by them." (Fanning's "Voyages," p. 487.)

At Antipodes Island, off the coast of New South Wales, 400,000 skins were obtained in the years 1814 and 1815.

Referring to these facts, Professor Elliott, of the Smithsonian Institution, in his able Report on the Seal Islands, published by the Interior Department in 1884, says:

"This gives a very fair idea of the manner in which the business was conducted in the South Pacific. How long would our sealing interests in Behring's Sea withstand the attacks of sixty vessels carrying from twenty to thirty men each? Not over two seasons. The fact that these great southern rookeries withstood and paid for attacks of this extensive character during a period of more than twenty years speaks eloquently of the millions upon millions that must have existed in the waters now almost deserted by them."

425 Mr. R. H. Chapel, of New London, Connecticut, whose vessels had visited all the rookeries of the South Pacific, in his written statement before the Committee on Commerce of the House of Representatives, said:

"As showing the progress of this trade in fur-seal skins, and the abuses of its prosecution, resulting in almost total annihilation of the animals in some localities, it is stated on good authority that, from about 1770 to 1800, Kerguelen Land, in the Indian Ocean, yielded to the English traders over 1,000,000 skins; but open competition swept off the herds that resorted there, and since the latter year hardly 100 per annum could be obtained on all its long coast. Afterwards Mas-á-Fuera Island, near Juan Fernandez, was visited, and 50,000 a-year were obtained; but as every one that desired was free to go and kill, the usual result followed—the seals were exterminated at that island, and also at the Galapagos group near by.

"Falkland and Shetland Islands, and South American coasts, near Cape Horn, came next in order; here the seal were very abundant. It is stated that at the Shetlands alone 100,000 per annum might have been obtained and the rookories preserved, if taken under proper restrictions; but in the eagerness of men they killed old and young, male and female; little pups a few days old, deprived of their mothers, died by thousands on the beaches; carcasses and bones strewed the shores, and this productive fishery was wholly destroyed. It is estimated that in the years 1821 and 1822 no less than 320,000 of these animals were killed at the Shetlands alone. An American captain, describing in after years his success there, says: 'We went the first year with one vessel and got 1,200; the second year with two vessels, and obtained 30,000; the third year with six vessels, getting only 1,700—all there was left.'

"A small rookery is still preserved at the Lobos Islands, off the River La Plata; this, being carefully guarded under strict regulations by the Government of Buenos Ayres and rented to proper parties, yields about 5,000 skins per annum. As late as the year 1854 a small island, hardly a mile across, was discovered by Americans in the Japan Sea, where about 50,000 seals resorted annually. Traders visited it, and in three years the club and knife had cleaned them all off. Not 100 a season can now be found there."

Honourable C. A. Williams, of Connecticut, who inherited the whaling and sealing business from his father and grandfather, speaking of the seal in the South Pacific, gave the following testimony before the Congressional Committee:

The history of sealing goes back to about 1790, and from that to the early part of this century.

In the earlier period of which I speak there were no seals known in the North Pacific Ocean. Their particular haunt was the South Atlantic. They were discovered by Cook, in his voyages, on the Island of Desolation; by Widdall, in his voyages to the South Pole, on the Island of South Georgia and Sandwichland; and by later voyagers, whose names escape me, in the islands of the South Pacific Ocean. When the number of seals on those islands were first brought to the notice of British merchants, they pursued the hunting of these animals on the Island of Desolation.

The most authentic authority we have about the matter is derived from reports made by these voyagers as to the number of seals taken from those places, and, although they are not entirely accurate, I think they are fully as accurate as could be expected, considering the lapse of time. On the Island of Desolation it is estimated that 1,200,000 fur-seals were taken; from the Island of South Georgia a like number were taken, and from the Island of Mas-á-Fuera probably a greater number were taken. As to the Sandwichland the statistics are not clear, but there can be no doubt that over 500,000 seals were taken from that locality, and in 1820 the Islands of South Shetland, south of Cape Horn, were discovered; and from these islands 320,000 fur-seals were taken in two years. There were other localities from which seals were taken, but no others where they were found in such large numbers.

* * * * * * * *

The cause of the extermination of seals in those localities was the indiscriminate character of the slaughter. Sometimes as many as fifteen vessels would be hanging around these islands awaiting opportunity to get their catch, and every vessel would be governed by individual interests. They would kill everything that came in their way that furnished a skin, whether a cow, a bull, or a middle-grown seal, leaving the young pups just born to die from neglect and starvation. It was like taking a herd of cattle and killing all the bulls and cows and leaving the calves. The extermination was so complete in these localities that the trade was exhausted, and voyages to those places were abandoned. About 1870, nearly fifty years after the discovery of the South Shetland Islands, when the occupation of Alaska by the cession of Russia to the United States of the Behring's Sea was brought about——

The Chairman.—I want to interrupt you to ask a question bearing on that point. Were those rookeries in the South Seas never under the protectorate of any Government at all?

The Witness.—Never. I was going to say that when the cession was made by Russia to the United States of this territory, and the subject of the value of fur-seals, or the possible value, was brought to mind, people who had been previously engaged in that business revisited these southern localities after a lapse of nearly fifty years, and no seals were found on the Island of Desolation. These islands have been used as the breeding-place for sea-elephants, and that creature cannot be exterminated on that island, for the reason that certain beaches known as "weather beaches" are there. The sea breaks rudely upon these beaches, and it is impossible to land upon them. There are cliffs, something like 300 to 500 feet, of shore ice, and the sea-elephant finds a safe resort on these beaches, and still preserves enough life to make the pursuit of that animal worth following in a small way.

I have vessels there, and have had, myself and father, for fifty or sixty years. But this is incidental. The Island of South Shetland, and the Island of South Georgia, and the Island of Sandwichland, and the Diegos, off Cape Horn, and one or two

minor points were found to yield more or less seal. In this period of fifty years
e localities seal life had recuperated to such an extent that there was taken
hem in the six years from 1870 to 1876 or 1877 perhaps 40,000 skins.
after they had been abandoned for fifty years?—A. Yes; to-day they are again
ited. The last year's search of vessels in that region—I have the statistics here
ssel from Stonington from the South Shetland Islands, reported in 1888, and
ocured thirty-nine skins as the total result of search on those islands and South
a.

One of my own vessels procured sixty-one skins, including eleven pups, as
the total result of her voyage; and, except about Cape Horn, there are, in my
pinion, no seals remaining. I do not think that 100 seals could be procured
ll the localities mentioned by a close search. Any one of those localities I
amed, under proper protection and restrictions, might have been perpetuated
eeding-place for seals, yielding as great a number per annum as do the islands
ing to the United States.
, the trade in those localities is entirely exhausted, and it would be impossible
ntury to restock those islands, or bring them back to a point where they would
reasonable return for the investment of capital in hunting skins. That, in
completes the history of the fur-seal in the South Atlantic Ocean.

Danger of the Extermination of the Alaska Rookeries.

ave already mentioned that the present number of seals on St. Paul and St.
Islands has materially diminished during the last two or three years. The
ny discloses the fact that a large number of British and American vessels,
d by expert Indian seal-hunters, have frequented Behring's Sea and destroyed
ds of thousands of fur-seals by shooting them in the water, and securing as
f the carcases for their skins as they were able to take on board, The testi-
of the Government Agents shows that of the number of seals killed in the
not more than one in seven, on an average, is secured, for the reason that a
ed seal will sink in the sea; so that for every 1,000 sealskins secured in this
r there is a diminution of seal life at these rookeries of at least 7,000. Added
is the fact that the shooting of a female seal with young causes the death of
If the shooting is before delivery, that, of course, is the end of both; if after,
ng seal dies for want of sustenance.
ng the season of 1885 the number of contraband sealskins placed on the mar-
s over 13,000; and in 1886, 25,000; in 1887, 34,000; and in 1888 the number of
kins secured by British cruizers was less than 25,000, which number would
een largely increased had not the season been very stormy and boisterous.
an citizens respected the law and the published notice of the Secretary of
asury, and made no attempt to take seals.
this it appears that, during the last three years, the number of contraband
ns placed on the market amounted to over 97,000, and which, according to
timony, destroyed nearly 750,000 fur-seals, causing a loss of revenue amount-
over 2,000,000 dollars, at the rate of tax and rental paid by the lessee of the
lands.

Limitation: the Lessee forbidden to kill any Female Seal.

Following is an extract from the official Report to Congress:
essee is permitted to kill 100,000 fur-seals on St. Paul and St. George Islands,
more, and is prohibited from killing any female seal or any seal less than one
l, and from killing any fur-seal at any time except during the months of June,
eptember, and October, and from killing such seals by the use of fire-arms or
eans tending to drive the seals from said islands, and from killing any seal

operation requires the exercise of a life-long experience, and is of the utmost importance, as the killing of females, which are easily mistaken for young males, even by the natives, would endanger the propagation of the species.

The same witness, when not an employé of the Treasury, gave testimony on another point in 1889:

Q. Where are those seals born? Where do the female seals give birth to their young?—A. They are born on the rookeries.

Q. Are they an animal or a fish, or what are they; how do you classify them?—A. They are hot-blooded animals born on the land; they are not a fish.

Q. And born on the United States territory, are they?—A. Yes; all those born on the Islands of St. Paul and St. George.

Q. That is in United States territory?—A. Yes, Sir. "Fisheries" is a misnomer all the way through, and always was.

427 H. A. Glidden, an Agent of the Treasury Department, was on the Pribylov Islands from May 1882 to June 1885. In describing before the Congressional Committee the mode of killing seals by the lessee of the islands, the following occurred:

Q. Do they kill any females?—A. They never kill females. I do not know of but one or two instances in my experience where a female seal was ever driven out with the crowd.

* * * * * * *

Q. Do you believe seal life can be preserved without Government protection over them?—A. I do not.

W. B. Taylor, a Treasury Agent, was asked the same question as to the killing of female seals, and he said that "he had never known but one or two killed by the lessee on the islands, and they by accident." He was further asked as follows:

Q. When they kill the seals in the waters, about what proportion of them do they recover?—A. I do not believe more than one-fourth of them.

Q. The others sink?—A. They shoot them and they sink.

Q. Have you ever noticed any wounded ones that came ashore that have been shot?—A. No, Sir; I do not think I did.

The same witness testified as follows:

Q. You do not think, then, that the value of the seal fisheries and the seal rookeries could be preserved under an open policy?—A. No, Sir; I do not. I think if you open it they will be destroyed without question.

Q. Do you think it necessary to protect the seals in the sea and down in their feeding-grounds in the Pacific, if possible, in order to preserve their full value and perpetuity of seal life? Do you think they ought to be protected everywhere as well as on the rookeries?—A. Yes, Sir; I think they ought to be protected not alone on the rookeries, but on the waters of the Behring's Sea. I do not think it is necessary to go outside the Behring's Sea, because there is no considerable number of them.

Q. Are they so dispersed in the Pacific that they would not be liable to destruction?—A. Yes, Sir; they are scattered very much, and no hunters do much hunting in the Pacific, as I understand. Another reason why they should be protected in all the waters of the Behring's Sea is this: a large number of seals that are on the islands of course eat a great many fish every twenty-four hours, and the fish have become well aware of the fact that there are a good many seal on the Seal Islands, and they stay out a longer distance from the islands, and they do not come near the shore. It becomes necessary for the seal themselves, the cows, to go a good distance into the sea in order to obtain food, and it is there where most of the damage is done by these vessels. They catch them while they are out.

Q. So on the rookeries they go out daily for food?—A. The cows go out every day for food. The bulls do not go; they stay on the island all summer. The cows go 10 and 15 miles, and even further, I do not know the average of it, and they are going and coming all the morning and evening. The sea is black with them round about the islands. If there is a little fog and they get out half-a-mile from shore, we cannot see a vessel—100 yards even. The vessels themselves lay around the islands there where they pick up a good many seal, and there is where the killing of cows occurs when they go ashore. I think this is worse than it would be to take 25,000 more seal on the islands than are now taken. I think there is some damage done in the killing and shooting of the cows, and leaving so many young without their mothers.

Q. Is it your opinion that a larger number of seals may be taken annually without detriment to the rookeries?—A. No, Sir; I would not recommend that. The time may come, but I think that one year with another they are taking all they ought to take, for this reason:

I believe that the capacity of the bull seal is limited, the same as any other animal, and I have very frequently counted from thirty to thirty-five, and even, at one time, forty-two cows with one bull. I think if there were more bulls there would be less cows to one bull, and in that way the increase would be greater than now. While

the number of seal in the aggregate is not apparently diminished, and, in fact, there is undoubtedly an increase, yet if you take any greater number of seal than is taken now, this ratio of cows to one bull would be greater, and for that reason there would be a less number of young seals, undoubtedly. I look upon the breeding of the seal as something like the breeding of any other animal, and that the same care, and restriction, and judgment should be exercised in this breeding.

The same witness testified as follows:

Q. What will be the effect upon the seal rookeries if this surreptitious and unlawful killing in the Behring's Sea is to be permitted?—A. In my judgment, it would eventually exterminate the seal.

Mr. C. A. Williams, of Connecticut, before referred to, testified as follows:

Q. I would like to know—I do not know that it is just the proper time—but I would like to get the idea of those conversant with the habits and nature of the seal, as to what their opinion is upon the effect of the indiscriminate killing of them while they are coming to and going from the islands?—A. That is a question which I think most any of us here can answer. If you note the conformation of
428 the Aleution Islands, which form a wall, and note the gaps through which the seals come from the Pacific Ocean seeking the haunt on these islands, that is the whole point. When they come through these various passes, generally through the Oomnak Pass, the sea is reasonably shallow, and the cows come laden with pups, waiting until the last moment in the water to go ashore to deliver, because they can roll and scratch and help themselves better than if they haul out when heavy with pup, so they stay in the water playing about until their instinct warns them it is time to go ashore, and during that time they are massed in great quantities in the sea.

Q. Now, in that view of it, the destruction of them there is almost practically the same as the destruction on the islands?—A. Yes, Sir.

Q. And the conditions are as bad?—A. Yes, Sir; and often worse, for this reason: If you kill a pup you destroy a single life, but in killing a cow you not only destroy the life that may be, but the source from which life comes hereafter, and when they are killed there in the water by a shot-gun or a spear the proportion saved by the hunters is probably not one in seven. That was their own estimate; that out of eight shots they would save one seal and seven were lost. If they were killed in the land, those seven would go towards filling out their score.

The same witness also testified as follows:

Q. Have you instructed your agents to comply strictly with the Laws and Regulations of the Treasury Department?—A. In every case; yes.

Q. Do you kill seals with fire-arms at the islands, or do you prohibit that?—A. No, Sir, never; it is not allowed by the Act.

Q. Do you kill the female seals or allow them to be killed?—A. Never with our knowledge.

Q. Do you kill any during the month of August for their skins?—A. Not a seal; no.

Q. Do you kill any seals under 2 years old?—A. Not that we are aware of.

The same witness further testified:

Q. Now, I would like to have your opinion as to the insufficiency of the present measures taken by the Government for the protection of the rookeries, and your opinion as to whether any additional safeguards are necessary for their protection.—A. That the present measures are somewhat insufficient is shown by the fact that for the last three or four years there have been increased depredations annually upon the rookeries. More seals are taken within the limits of Behring's Sea. Formerly seals were only taken outside of Behring's Sea as they passed up to British Columbia, and off the mouth of Puget Sound, in the waters of the Pacific Ocean. That was a legitimate place to take them, and one against which no objection could be raised. Seals which come up that way enter through the passages of the Aleutian Islands nearest to the mainland, and it has always been the custom in British Columbia and our Sound to intercept the seals and get what they could. Within the last two or three years marauders have followed them through the passages into Behring's Sea, and have with guns and spears taken the seals as they lay upon the water, as I stated before, waiting to haul ashore and have their pups. The cows are heavy with pup, and they do not like to go ashore until the last moment, and so they lie there in the water, and this affords an opportunity for these marauders to shoot and spear them. This is done by gangs of Indians which they have. They hire gangs of Indians and take them with them. The effects of this shooting is not alone upon the seals which are at that point, but also upon those all around, and it startles them and raises a suspicion in their minds, and there is a general feeling of disturbance such as you notice among cattle when bears are about or something of that kind.

And again:

Q. Now, Mr. Williams, should it be finally ascertained and considered by our Government that, under the Treaty of Cession by which we acquired Alaska from Russia, and under the law of nations, the United States does possess and has absolute domin-

ion and jurisdiction over Behring's Sea and the waters of Alaska, would you think it would be a wise policy to adhere to and maintain that jurisdiction and dominion complete, or would it be wiser to declare it the high sea in the legal sense?—A. In the light of to-day I should say keep what you have got.

Q. Hold it as a closed sea?—A. Fisheries within those limits are yet to be developed, and it would seem to be very unwise to open up possible fishery contentions which are very likely to arise by such a course.

Q. You think that would be, then, the wiser policy to maintain such jurisdiction and dominion as we have, and to concede to the vessels of other nations such rights as are not inconsistent with the interests which our nation has there and which need protection?—A. Exactly that; the right of transit through the sea wherever they please, but positive protection to seal life.

Q. You do not think it would be wise to grant anything else?—A. No, Sir; not at all.

Q. And in no case to surrender the power of policing the sea?—A. No, Sir; under no circumstances.

Q. Could that power and jurisdiction be surrendered and yet preserve this seal life on these rookeries and the value of our fisheries that may be developed there?—A. Only with very great risk, because, if that right is surrendered, and thereby the right to police the sea, the depredations that are made upon the seal wherever they may be found, wherever men thought they could carry them out without being taken in the act, would be carried out. So it would be difficult in regard to the fisheries. Wherever they could kill these seals they certainly would be there, and it would be impossible to prevent them.

429 In the statements and statistics relative to the fur-seal fisheries submitted by C. A. Williams in 1888 to the Committee of Congress on Merchant Marine and Fisheries, appears the following:

Examination of the earliest records of the fur-seal fishery shows that from the date of man's recognition of the value of the fur the pursuit of the animal bearing it has been unceasing and relentless. Save in the few instances to be noted hereafter, where Governments have interposed for the purpose of protecting seal life, having in view benefits to accrue in the future, the animal has been wantonly slaughtered, with no regard for age, sex, or condition. The mature male, the female heavy with young, the pup, dependent for life on the mother, each and all have been indiscriminately killed or left to die of want. This cruel and useless butchery has resulted in complete extermination of the fur-seal from localities which were once frequented by millions of the species; and, so far as these localities are concerned, has obliterated an industry which a little more enlightened selfishness might have preserved in perpetuity to the great benefit of all ranks of civilized society. Nothing less than stringent laws, with will power to enforce them against all violators, can preserve for man's benefit the remnant of a race of animals so interesting and so useful.

The most valuable "rookery," or breeding-place, of these animals ever known to man is now in the possession of the United States. How it has been cared for in former years and brought to its present state of value and usefulness will be shown later on. But the matter of its preservation and perpetuation intact is the important question of the moment, and that this question may be considered intelligently the evidence is here presented of the wanton destruction that has befallen these animals when left unprotected by the law to man's greed and selfishness, which, it is fair to say, is all that could be expected from the unlicensed hunter, whose nature seeks individual and immediate gain, with no regard for a future in which he has no assurance of personal advantage.

The following statistics are gathered from the journals of early navigators, and such commercial records as are now available are submitted.

Kerguelen Land.—An island in Southern Indian Ocean, discovered about 1772. The shores of this island were teeming with fur-seal when it first became known. Between the date of its discovery and the year 1800 over 1,200,000 seal-skins were taken by the British vessels from the island, and seal life thereon was exterminated.

Crozetts.—The Crozett Islands, in same ocean and not far distant, were also visited and hunted over and the seal life there totally exhausted.

Mas-á-Fuera.—An island in Southern Pacific Ocean, latitude 38° 48′ south, longitude 80° 34′ west, came next in order of discovery, and from its shores in a few years were gathered and shipped 1,200,000 fur-seal skins.

Delano, chapter 17, p. 306, says of Mas-á-Fuera:

"When the Americans came to this place in 1797 and began to make a business of killing seals, there is no doubt but there were 2,000,000 or 3,000,000 of them on the island. I have made an estimate of more than 3,000,000 that have been carried to Canton from thence in the space of seven years. I have carried more than 100,000 myself, and have been at the place when there were the people of fourteen ships or vessels on the island at one time killing seals."

tlands.—In 1821–23 the South Shetland Islands, a group nearly south from
became known to the seal-hunters, and in two years over 320,000 seals
and their skins shipped from these islands.
rgia.—Later still, seal were found on the Island of South Georgia, South
ean, and from this locality was obtained over 1,000,000 of fur-seal, leav-
ches bare of seal life.
s.—From the coasts of South America and about Cape Horn many thou-
-seal have been taken, and of the life once so prolific there nothing is now
ch remnants of former herds as shelter on rocks and islets almost inac-
he most daring hunter.
rd shows the nearly complete destruction of these valuable animals in
as. Properly protected, Kerguelen Land, Mas-á-Fuera, the Shetlands,
Georgia might have been hives of industry, producing vast wealth, train-
for hardy seamen, and furnishing employment for tens of thousands in
markets where skins are dressed, prepared, and distributed. But the
ere no man's land, and no man cared for them or their products save as
truction they could be transmitted into a passing profit.
life of to-day available for commercial purposes is centered in three

boe Islands, situated in the mouth of the River La Plata, owned and con-
he Uruguay Republic, and by that Government leased to private parties
of 6,000 dollars per annum and some stipulated charges. The annual
kins is about 12,000. The skins are of rather inferior quality. Insuf-
ictions are placed upon the lessees in regard to the number of skins per-
taken annually, consequently there is some waste of life; nevertheless,
of protection allowed has insured the preservation of the rookery, and
e so to do.
dorski Conplet, which consists of the Islands of Copper and Behring,
st of Kamchatka, in that portion of Behring's Sea pertaining to Russia.
ls yield about 40,000 skins per annum, of good quality, and are guarded
restrictive Rules as to the killing of seal, analogous to the Statutes of
States relative to the same subject. The right to take seals upon them
the Russian Government to an Association of American citizens, who
he lease of the islands belonging to the United States, and are thus
control and direct the business in fur-seal skins for the common advan-
nefit of all parties in interest. These islands can hardly be said to have
ked" at all for salted sealskins prior to the cession of Alaska by Russia
d States, and the United States Government now profits by the industry
e extent of the duty of 20 per cent. collected on the "dressed skins"
ned to this country from the London market. From 1878 to 1887,
sive, this return has been 121,275 skins.
ibylov group consists of the Islands of St. Paul and St. George, and is a
t reservation in that part of Behring's Sea ceded to the United States by
ether with and a part of Alaska. So exhaustive an account of these
their seal life has been given by Mr. H. W. Elliott, Special Agent of the
epartment in 1874, and since intimately connected with the Smithsonian
, which account has been made a part of Tenth Census Report, that it
ntrusive here to attempt to supplement aught, and therefore only general-
sed on said Report and such statements of life and procedure on the
lay are presented as may be pertinent in this connection.
ticle on fur-seals which appeared in "Land and Water," July 14, 1877,
Lee (Englishman), F. L. S., says:
en stated that during a period of fifty years not less than 20,000 tons of
it's oil, worth more than 1,000,000*l.*, was annually obtained from New
sides an incalculable number of fur-seal skins, of which we have no
Some idea may be had of their numbers in former years when we learn
Island of Mas-á-Fuera, on the coast of Chile (an island not 25 miles in
ice), Captain Fanning, of the American ship "Betsy," obtained in 1798 a
choice skins, and estimated that there were left on the island at least
s. Subsequently there were taken from this island little short of 1,000,000
seal catching was extensively prosecuted there for many years, the seal-
the coast of Chile alone then numbering thirty vessels. From Desolation
discovered by Cook, and the South Shetlands, discovered by Weddell,
of skins taken was at least as great; from the latter alone 320,000 were
ing the two years 1821 and 1822. China was the great market to which
ent, and there the price for each skin was from 4 to 6 dollars. As several
ns of shipping, chiefly English and American, were at that time employed
atching, the profits of the early traders were enormous.
reader ask what has become of this extensive and highly remunerative
trade? It has been all but annihilated by man's grasping greed, reck-

less improvidence, and wanton cruelty. The "woeful want" has come that "woeful waste" has made. Without thought of the future the misguided hunters persistently killed every seal that came within their reach. Old and young, male and female, were indiscriminately slaughtered, in season and out of season, and thousands of little pups not thought worth the trouble of knocking them on the head were left to die of hunger alongside of the flayed and gory carcases of their mothers. Every coast and island known to be the haunt of the seals was visited by ship after ship, and the massacre left unfinished by one gang was continued by the next comers and completed by others until, in consequence of none of the animals being left to breed, their number gradually diminished so that they were almost exterminated, only a few stragglers remaining where millions were once found. In some places where formerly they gathered together in such densely packed crowds upon the shore that a boat's crew could not find room to land till they had dispersed them for a space with oars and boat-hooks, not one fur-seal was to be found even so long ago as 1835.

Dr. H. H. McIntyre, Superintendent of the seal fisheries of Alaska for the lessees, testified before the Congressional Committee as follows:

Q. What proportion of the seals shot in the water are recovered and the skins taken to market?—A. I think not more than one-fifth of those shot are recovered. Many are badly wounded and escape. We find every year, imbedded in blubber of animals killed upon the islands, large quantities of bullets, shot, and buckshot. Last year my men brought to me as much as a double handful of lead found by them imbedded in this way.

* * * * * * *

Q. I want to ask you whether or not the 3-year-old seals, or many of them, which should have returned this year did not return because they had been killed?—A. That seems to be the case. The marauding was extensively carried on in 1885 and 1886, and in previous years, and of course the pups that would have been born from cows that were killed in 1885, or that perished through the loss of their mothers during that year, would have come upon the islands in 1888, and we should have had that additional number from which to make our selection this year. The deficiency this year is attributed to that cause—to the fact that the cows were killed. And I would say further that if cows are killed late in the season, *say in August*, after the pups are born, the latter are left upon the island deprived of the mother's care, and of course perish. The effect is the same whether the cows are killed before or after the pups are dropped. The young perish in either case.

* * * * * * *

Q. It being conceded that the islands are their home, and no one being interested other than the American and Russian Governments, there would be no special reason why other nations would object?—A. Only the Governments of the United States and England are interested in the Alaskan seal fisheries to any great extent. The United States is interested in it as a producer of raw material, and England as a manufacturer of furs. If these two nations were agreed that seal life should be protected. I think there would be no trouble in fully protecting it. It is a question of quite as much interest to England as to the United States, for she has a large number of skilled workmen and a large amount of capital engaged in this industry.

Professor Elliott, of the Smithsonian Institution, who has spent some time in scientifically examining the Seal Islands and the habits of the seal, thus describes the killing power of the seal-hunter at sea:

431 His power to destroy them is also augmented by the fact that those seals which are most liable to meet his eye and aim are the female fur-seals, which, heavy with young, are here slowly nearing the land, soundly sleeping at sea by intervals, and reluctant to haul out from the cool embrace of the water upon their breeding-grounds until that day, and hour even, arrives which limits the period of their gestation.

The pelagic sealer employs three agencies with which to secure his quarry, viz.: He sends out Indians with canoes from his vessel armed with spears; he uses shotguns and buck-shot, rifles and balls; and last, but most deadly and destructive of all, he can spread the "gill-net" in favourable weather.

With gill-nets "underrun" by a fleet of sealers in Behring's Sea across these converging paths of the fur-seal, anywhere from 10 to 100 miles southerly from the Pribylov group, I am moderate in saying that such a fleet could utterly ruin and destroy those fur-seal rookeries now present upon the Seal Islands in less time than three or four short years. Every foot of that watery roadway of fur-seal travel above indicated, if these men were not checked, could and would be traversed by those deadly nets; and a seal coming from or going to the islands would have, under the water and above it, scarcely one chance in ten of safely passing such a cordon.

Open those waters of Behring's Sea to unchecked pelagic sealing, then a fleet of hundreds of vessels, steamers, ships, schooners, and what not, would immediately venture into them, bent upon the most vigorous and indiscriminate slaughter of these fur-seals; a few seasons of greediest rapine, then nothing would be left of

derful and valuable interests of our Government which are now so handbodied on the Seal Islands; but which, if guarded and conserved as they , will last for an indefinite time to come as objects of the highest commerand value to the world, and as subjects for the most fascinating biological

; fur-seals in the open waters of the sea or ocean with the peculiar shot cartridges used involves an immense waste of seal life. Every seal that rounded, and even if mortally wounded at the moment of shooting, dives away instantly, to perish at some point far distant, and to be never again human enemies; it is ultimately destroyed, but it is lost, in so far as the concerned. If the seal is shot dead instantly, killed instantly, then it ked up in most every case; but not one seal in ten fired at by the most rine hunters is so shot, and nearly every seal in this ten will have been nany of them fatally. The irregular tumbling of the water around the ie irregular heaving of the hunter's boat, both acting at the same moment lependent of each other, making the difficulty of taking an accurate aim y great, and the result of clean killing very slender.

ge R. Tingle, United States Treasury Agent in charge of the fur-seal n April 1885 until August 1886, testified as follows:

Mr. McIntyre's opinion that they have not only not increased, but have —A. There has been a slight diminution of seals, probably.

iat do you attribute that?—A. I think there have been more seals killed han ever before by marauders. I estimated that they secured 30,000 skins d in order to secure that number of skins they would have had to kill ls, while this Company in taking 100,000 on shore destroyed only thirty- Those were killed by accident. Sometimes a young seal, or one not be killed, pops up his head and gets a blow unintentionally.

waste of seal life was only fifty-three in 1887?—A. Yes, Sir; in securing ns, while these marauders did not kill last year less than 500,000. The auding schooners have fallen into my hands, and they have convinced me o not secure more than one seal out of every ten that they mortally wound r the reason that the seals sink very quickly in the water. Allowing one , there would be 300,000 that they would kill in getting 30,000 skins: hose killed would be females having 200,000 pups on shore. Those pups by reason of the death of their mothers, which, added to the 300,000, 000 destroyed. I am inclined to think, because the seals show they are ing, or rather that they are at a standstill, that more than 300,000 are iarauders.

re of the opinion, then, that the marauders are killing more seals than the nmercial Company?—A. At least five or six times as many as the Alaska l Company are killing.

will be the effect if more stringent measures are not taken to protect the e Government?—A. If more stringent measures are not taken, it is only of time when these seals will be driven ultimately to seek some other e they will not be molested. They will not continue to be harassed; and, auding is continued, they will, in my opinion, either be gradually exter- r will leave the islands permanently and land at some other place. They the Russian side

narauding increase if the Government does not take steps to prevent it?— so.

practicable to prevent it?—A. Yes, Sir. If we did not allow these cheeky, insolent British Columbia seamen to go there and defy the United States horities, it would very soon be stopped. When our revenue-cutters seize schooners, the captains are very insolent and defiant, and claim that they ng Government at their backs. I am now referring particularly to Cap- r, of the "Dolphin." He said in 1887, when captured, "We have got a ernment at our backs, and we will fight you on this question." "Very Captain Shepherd, "I have got a strong Government at my back, and I o do my duty. My Government sends me to protect these seal rookeries. ged by this Administration to enforce the law, and I will seize all "

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You were speaking a while ago in regard to the amount of seal life oyed by marauders, and that a captain had given the number of seals Have you seen any of the log-books of those vessels?—A. Yes, Sir.

ou state what you remember with regard to the number of seals lost or y those vessels?—A. I remember reading the log-book of the "Angel ch I captured. There was an entry in that log-book that read as fol- ted to-day to my boats 300 rounds of ammunition. At night they came ammunition all expended, and one seal-skin."

Q. They had shot 300 rounds of ammunition?—A. Yes, Sir. Another entry I saw was: "Seven seals shot from the deck, but only secured one." All lost but one. Another entry: "It is very discouraging to issue a large quantity of ammunition to your boats, and have so few seals returned." An entry was made in another place, where he gave it as his opinion that he did not secure one seal-skin out of every fifty seals wounded and killed.

Q. Have you seen seal-skins upon the island that had been shot?—A. Very often. We gather handfuls of shot every season.

Q. Does that injure the market value of the skins?—A. Undoubtedly. Any hole is an injury to the skin.

Extract from Mr. Tingle's Report to the Treasury Department:

I am now convinced from what I gather, in questioning the men belonging to captured schooners and from reading the logs of the vessels, that not more than one seal in ten killed and mortally wounded is landed on the boats and skinned; thus you will see the wanton destruction of seal life without any benefit whatever. I think 30,000 skins taken this year by the marauders is a low estimate on this basis; 300,000 fur-seals were killed to secure that number, or three times as many as the Alaska Commercial Company are allowed by law to kill. You can readily see that this great slaughter of seals will in a few years make it impossible for 100,000 skins to be taken on the islands by the lessees. I earnestly hope more vigorous measures will be adopted by the Government in dealing with these destructive law-breakers.

William Gavitt, an Agent of the United States Treasury, gave this testimony:

Q. I understand you to say—for instance, taking 1887 or 1888—that the 100,000 seals taken upon the islands and the 40,000 taken and killed in the water, if no greater amount was taken, that there would be no perceptible diminution in the number of seal; that by the natural increase the Company might take 40,000 more than now if it were not for the depredations?—A. I had in mind an average between 25,000 killed in 1888 and about 40,000 in 1887.

Q. What I want to know is this: Is it your opinion that the number taken in the sea, when they are on the way from the islands to the feeding-grounds, have a tendency to demoralize the seal and to break up their habits, their confidence, &c.?—A. It would be likely to do it. They are very easily frightened, and the discharge of fire-arms has a tendency to frighten them away.

By Mr. MacDonald:

Q. No seals are killed by the Company in this way?—A. No, Sir; they are all killed on the islands with clubs.

Jacob H. Moulton, an Agent of the Government, testified:

Q. Do you think it essential to the preservation of seal life to protect the seal in the waters of Alaska and the Pacific?—A. There is no doubt about it.

Q. The herd could be exterminated without taking them upon the islands?—A. They could be exterminated by a system of marauding in the Behring's Sea, but I think the number killed along the British Columbia coast did not affect the number we were killing on the islands at that time, because there was apparently an increase during these years. There had been for five or six years up to that time. Since that time in Behring's Sea the seal have been gradually decreasing.

Q. You think their decrease is attributable to unlawful hunting in Behring's Sea?—A. There is no doubt of that.

Q. As a result of your observation there, could you suggest any better method of preserving seal life in Behring's Sea than that now adopted?—A. Not unless there furnished more revenue-vessels and men-of-war.

Q. So as to patrol the sea closely?—A. I think so. I do not think the seals scatter much through any great distance during the summer season, although very late in the summer the smaller seals arrive. The females, after giving birth to their young, scatter out in Behring's Sea for food. We know they leave the islands to go into the water, because they are coming and going. They suckle their young the same as most animals.

Q. Lawless hunters kill everything they find, I believe, females or not?—A. Yes, Sir.

Q. When a female is nursing her young and goes out for food and is killed or wounded, that results also in the death of her young?—A. Yes, Sir. As her young does not go into the water, it does not do anything for some time, and cannot swim and has to be taught.

Q. The seals are born upon those islands?—A. Yes, Sir; they come there for that purpose. They come there expressly to breed, because if they dropped their young in the water the pup would drown.

Q. Do you think the value of the seals justifies the policy that the Government pursues for their preservation and protection?—A. Yes, Sir; I do.

Q. And under a rigidly enforced system protecting seal life in the waters of
433 these seas do you think the herd could be materially increased?—A. I think it would. I think there is no doubt but what it would.

, of Vancouver Island, a sailor on board the British schooner "Car-
ı seal-hunting in Behring's Sea in 1886, testified, after the vessel
he 686 seals taken during the whole time they were cruizing in the
ɔfly females.
en, Treasury Agent, recalled, testified as follows:
mber of skins taken you estimated the number killed?—A. That
re were thirty-five vessels in the sea, and we captured fifteen ves-
of the vessels were published in the papers when they arrived
ɔd from 1,000 to 2,500 skins each.
, then, that during the season 40,000 skins were taken? In killing
ıea they do not recover every seal they kill?—A. No, Sir; I do not
ı fact, I know they do not, judging from the amount of shot and
he seals that are afterwards killed on St. Paul and St. George

estruction of the seals in the open sea would be much in excess of
probably?—A. I have no very accurate information on which to
ut I should judge that they lost from 40 to 60 per cent. of them. I
ihot from the boats as I was approaching, and think they lost two
ɔ or six that I saw them shoot at.
bservations have you any recommendations or suggestions to offer,
ıich would lead to the better preservation of seal life in these waters
led by law?—A. There is a difference of opinion as to the construc-
I firmly believe that the Government should either protect the
n the eastern half of Behring's Sea or throw up their interest there.
ea is to be regarded as open for vessels to go in and capture seals
would be exterminated in a short time.

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Mr. Tupper to Sir J. Pauncefote.

THE ARLINGTON, *Washington, March 8, 1890.*

DEAR SIR JULIAN: I have the honour to inclose herewith a Memorandum prepared by me in reply to the Memorandum sent to you by Mr. Blaine, and which you handed to me upon the 3rd instant.

I send you a copy for yourself, one for Mr. Blaine, and one for M. de Struve, the Russian Ambassador.

I also have the honour to forward herewith a valuable paper upon the subject, prepared hurriedly by the Assistant Director of the Geological Survey of Canada, George Dawson, D. S., F. G. S., F. R. S. C., F. R. M. S.

I may add that Dr. Dawson was in charge of the Yukon Expedition in 1887.

Copies of his paper are also inclosed for Mr. Blaine and M. de Struve.

I am, &c.

(Signed) CHARLES H. TUPPER.

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436 *Memorandum on Mr. Blaine's Letter to Sir Julian Pauncefote, dated March 1, 1890.*

In the Appendix to Mr. Blaine's letter of the 1st March, on the third page, is an extract from a Report to the House of Representatives, as follows:

"In former years fur-seals were found in great numbers on various islands of the South Pacific Ocean, but after a comparatively short period of indiscriminate slaughter the rookeries were deserted, the animals having been killed or driven from their haunts."

While it is admitted that indiscriminate slaughters upon the rookeries are most injurious to the maintenance of seal life, it is denied that in the history of the fur-seal industry any instance can be found where a rookery has ever been destroyed, depleted, or even injured by the killing of seals at sea only.

Mr. Elliott, who is quoted by Mr. Blaine, admits that the rookeries in the South Pacific withstood attacks of the most extensive and destructive character for twenty years, when young and old males and females were indiscriminately knocked on the head upon their breeding-grounds; and Mr. Clark (H. R. Report No. 3883, 50th Congress, 2nd Session, p. 91) tells us that in 1820 thirty vessels on the islands (South Shetlands) took in a few weeks 250,000 skins, while thousands were killed and lost. In 1821 and 1822, 320,000 skins were taken, and 150,000 young seals destroyed. None of these islands, however, were ever frequented by the millions which have been found on the Pribylov group for over twenty years.

"These islands constitute the most valuable rookery or breeding-place of these animals ever known to man." (H. R. Report 3883, 50th Congress, pp. 111, 112, Hon. C. A. Williams' written statement.)

Professor Elliott (in his evidence, p. 142) mentions one person who, when with him at the islands, estimated the number at 16,000,000.

The Report of the Congressional Committee on the Alaska seal fisheries states that indiscriminate slaughter in the early part of the nineteenth century caused a desertion of the rookeries, and it goes on to say that in 1820 and 1821, 300,000 were taken in an indiscriminate fashion at the South Shetlands, and, at the end of the second year, the species had there been almost exterminated.

The Honourable C. A. Williams, whose evidence is cited and relied upon by Mr. Blaine, supports this view (see p. 111, H. R. Report No. 3883, 50th Congress); but, as a matter of fact, while seals are admittedly not so plentiful in South Shetlands as heretofore, owing to wholesale destruction on the breeding-grounds, so prolific are they that, in 1872, 8,000 skins of "the choicest and richest quality were obtained from these islands. In the next season 15,000 skins were taken there, and in 1874, 10,000 skins, and from 1870 to 1880 the sealing fleet brought home 92,756 fur-seal skins from the South Shetlands, and the vicinity of Cape Horn and Tierra del Fuego." (A. Howard Clark, p. 402, Commission of Fisheries, Fishery Industries United States, section 5, vol. ii, 1887.) In this regard, it may here be noted that this extract refers only to the catch of sealers which fitted out at New London, Connecticut, and does not embrace the operations of sealers from other countries.

Mr. Clark describes the manner in which the seals at Mas-á-Fuera were attacked. At p. 407 of the article above cited he points out that between the years 1793 and 1807, 3,500,000 seals were obtained from this island by English and American vessels, and in 1824 the island was "*almost* abandoned by these animals." Mr. Clark also shows that in 1797 there were only 2,000,000 on the islands, and yet in seven years more than 3,000,000 were carried from the islands to Canton, China.

Mention is made, too, of fourteen ships' crews on the island at one time killing seals. At p. 408 mention is made of from twelve to fifteen crews on shore at the

same time (American and English), and that "there were constantly more or less of ships' crews stationed here for the purpose of taking fur-seals' skins," from 1793 to 1807.

It is contended by the Canadian Government that a reference to the history of this island is entirely beside the contention on the part of the United States that it is necessary to keep sealing craft hundreds of miles away from rookeries in order to preserve the seal life on the breeding-grounds.

The cause of injury is the same in all the cases mentioned, and Mr. Chapel, in the Appendix to Mr. Blaine's letter, now under consideration, at p. 5 well says:

"It is stated that at the Shetlands alone [which never equalled the present condition of the Pribylov group, mentioned by Hon. C. A. Williams, already quoted], 100,000 per annum might have been obtained and the rookeries preserved if taken under proper restrictions; but, in the eagerness of men, old and young male and female seals were killed, and little pups a few days old, deprived of their mothers, died by thousands on the beaches"—[it may here be observed that not a case of dead pups was ever found on the Pribylov group, so far as the Reports on the islands show]—"carcases and bones strewed on the shores."

This statement, cited in the United States Case, is direct authority for the Canadian contention. It illustrates three important points:

1. That indiscriminate slaughter on the breeding-grounds is injurious and in time destructive.

2. That when the mothers are killed, the young pups, dying in consequence, are found on the island.

3. That Regulations of the number to be killed on the island, with careful supervision, will maintain the rookeries independently of prohibiting sealing in the waters.

The Report of the House of Representatives states:

"The only existing rookeries are those in Alaska, another in the Russian part of Behring's Sea, and a third on Lobos Island, at the mouth of the River Plate, in South America."

The statement is incorrect. Important omissions occur, since the cases left out, when examined, show that, notwithstanding all of the extraordinary and indiscriminate slaughter of past years, it is possible, by careful supervision of the rookeries alone, and of the seals while on land, to revive, restore, and maintain lucrative rookeries.

Quoting from an extract from a Russian Memorandum respecting the hunting of seals, communicated by M. de Staal to the Marquis of Salisbury, and 437 dated the 25th July, 1888, it is found that other rookeries are by no means deserted. The extract reads as follows:

"The places where fur-seal hunting is carried on may be divided into two distinct groups. The first group would comprise Pribylov Islands, Behring's Sea, 100,000 killed in 1885; Commander Islands (Behring and Copper Islands, 45,000; Seal Islands, Okhotsk Sea, 4,000); total, 149,000.

"The second group, the sea near the coast of Victoria, 20,000; Lobos Islands, 15,000; islands near Cape Horn and the South Polar Sea, 10,000; islands belonging to Japan, 7,000; Cape of Good Hope, 5,000; total, 57,000."

An important omission is the case of Cape of Good Hope, in reference to which the Committee of the House of Representatives, previous to their Report, had been informed (see H. R. Report No. 3883, 50th Congress, 2nd Session, p. 114) that from the *Cape of Good Hope* Islands, under protection of the Cape Government, a yearly supply of 5,000 to 8,000 skins is derived, and that from Japan, it was stated, sometimes 15,000 and sometimes 5,000 a-year are received. These islands are now rigidly protected by the Governments of the countries to which they belong; but neither does the Government of the Cape, of Japan, nor of Uruguay, in the case of the Lobos Islands, consider it necessary to demand the restriction of the pursuit of seals in the open sea.

United States vessels have visited the islands off the Cape of Good Hope from 1800 to 1835, and have taken on some days 500 to 700 skins, securing several thousands of skins annually. In 1830 Captain Gurdon L. Allyn, of Gale's Ferry, Connecticut, mentions finding 1,000 carcases of seals at one of the islands, the skins of which had been taken. He landed and took seals in considerable numbers. He was again on a sealing voyage on this coast in 1834, and shot seals on the rookeries.

In 1828 a plague visited these rookeries, and 500,000 seals perished during the plague (Clark in the Report of the United States Commission of Fish and Fisheries, 1887, section 5, vol. ii, pp. 415, 416), and yet to-day we find a renewal of the industry by Regulations applied *solely* to the rookeries, and *exclusive* of the deep-sea operations.

Upon p. 7 of the Appendix now under review, the Report of the Congressional Committee on Alaska seal fisheries refers to testimony of United States Government Agents regarding the number of seals shot and not secured, and a calculation is referred to, to the effect that one in every seven is alone secured by the hunter who follows seals on the sea. The experience of Canadian hunters is directly opposed

to this theory, and shows that a loss of 6 per cent. is all that ever takes place, while Indian hunters seldom lose one. Solemn declarations to this effect have been made under the Canadian Statute relating to extra-judicial oaths.

In confirmation of this, reference may be had to Mr. H. W. Elliott, in the United States Fish Commissioner's Report, vol. ii, section 5, p. 489, where he says:

"The Aleuts fire at the otter at 1,000 yards range, and that, when hit in the head, nine times out of ten the shot is fatal."

In the case of hunting the seals, the practice of the white hunters, all expert shots, is to paddle up to the seal while asleep in the water, shoot it in the head, and at once haul it into the boat; while the Indians approach it in a canoe and spear the seal, the head of the spear separating itself and being attached to a rope by which the seal is dragged into the canoe.

Reference is made on p. 4 of the Appendix to Mr. Blaine's letter to the limitations in the lease of 1870. These conditions, it is contended, are most inconsistent with the present view of the United States regarding the danger to the preservation of seal life. With respect to this the following facts should be carefully noted:

1. Up to 1862 no Law in Russia existed prohibiting or forbidding the killing of seals, and in that year an inoperative Law was promulgated. (See Russian Memorandum, M. de Staal to Lord Salisbury, 25th July, 1888.)

Mr. McIntyre, a Special Agent of the Treasury Department (H. R. Ex. Doc. No. 36, 41st Congress, 2nd Session, p. 18), records the catch taken from the Pribylov Islands under the Russian-American Company, as follows:

Table showing the Number of Fur-seals taken by the Russians on St. Paul and St. George Islands from 1817 to 1860.

Year.	Number of Seals.	Year.	Number of Seals.
1817	60,188	1840	*8,000
1818	59,856	1841	*8,000
1819	52,225	1842	10,370
1820	50,220	1843	11,240
1821	44,995	1844	11,924
1822	36,469	1845	13,637
1823	29,873	1846	15,070
1824	25,400	1847	17,703
1825	30,100	1848	14,650
1826	23,250	1849	21,450
1827	19,700	1850	6,770
1828	23,228	1851	6,564
1829	20,811	1852	6,725
1830	18,034	1853	18,035
1831	16,034	1854	26,146
1832	16,446	1855	8,585
1833	16,412	1856	23,550
1834	15,751	1857	21,082
1835	6,580	1858	31,810
1836	6,590	1859	22,000
1837	6,802	1860	21,590
1838	*6,000		
1839	*6,000	Total in 44 years	765,687

* Approximative.

438 Referring to this Table, Mr. McIntyre says:

"The number of seals on St. Paul Island is variously estimated at from 3,000,000 to 4,000,000, including all classes, and on St. George at about one-third as many. I think it may be safely stated that there are not less than 4,000,000 on the two islands. The Table from the records of the late Russian-American Company, appended to this Report, exhibits the number of seals taken from each island from 1817 to 1837, and from 1842 to 1860. Previously to 1817, says the late Bishop Veniamnoff, no records were kept. From the same authority we learn that during the first few years following the discovery of the islands in 1781 over 100,000 skins were annually obtained; but this, it seems, was too large a number, for the decrease in the yearly return was constant until 1842, when they had become nearly extinct; and in the next decade the whole number secured was 129,178, being in 1852 but 6,564; but from 1842, under judicious management, there appears to have been an increase, and in 1858, 31,810 were taken, which was the largest *catch* in any one year, until 1867, when, as I am informed, some 80,000 or 100,000 were secured, under the supposition that the territory would soon be transferred to the United States. 'The decrease from 1817 to 1838,' says Bishop Veniamnoff, 'averaged about one-eighth of the whole number annually, so that in 1834 there were produced on both islands, instead of 60,000 to 80,000, only 15,751, and in 1837, 6,802.' From the most careful computation I have

o make, I am of the opinion that no more than 100,000—75,000 on St. Paul on St. George—can be annually taken without incurring the risk of again g the yearly production, as we observe the Russians to have done in rs."

Wick, Chief of Land Service, Russian-American Telegraph Expedition, ed in 1868 on undiminished condition of the seal fishery. (H. R. Ex. Doc. th Congress, 2nd Session.)

on seals had been taken from this sea between 1841 and 1870. (*Vide* Dall and its Resources," 1870, p. 492.)

S Hutchinson and Morgan, the promoters and founders of the Alaska l Company, and afterwards lessees of the islands, saw that, unless restrie- imposed *upon the islands*, there would be ruin to the rookeries (H. W.)ur Arctic Province," pp. 247, 248); consequently, by Act of Congress he 27th July, 1868, the killing of fur-seals *on the islands* was prohibited Intyre, Special Agent, Treasury Department, H. R. Ex. Doc. No. 36, 41st nd Session, p. 12). Notwithstanding the Act to which reference has been)0 were killed on St. George and 150,000 on St. Paul by traders in 1868 6), 100,000 in 1869 (W. H. McIntyre, H. R. Ex. Doc. No. 36, 41st Congress,

dman, an Agent of the United States Treasury at the Seal Islands, in his laska," published 1884, on p. 92, says: •

l onslaught, threatening extermination, by American vessels during the m of departure of Russian and installation of United States Governments "

same officer, in his own sworn testimony given before the Congressional , stated that 300,000 were killed in 1869.

thstanding this condition of affairs, Secretary Boutwell reported in 1870 Doc. No. 129, p. 2, 41st Congress, 2nd Session) that "if the animals are pro- probable that about 100,000 skins may be taken each year without dimin- supply," and that "great care was necessary for the preservation of the es *upon the Islands of St. Paul and St. George.*"

in his book on Alaska (1870, p. 496), in referring to slaughter by Russians, at 100,000 seals could safely be killed annually under Regulations, and in his despatch to Sir Julian Pauncefote of the 27th of January, says: course of a few years of intelligent and interesting experiment the num- uld be safely slaughtered was fixed at 100,000 per annum."

well, as will be seen on reference to his Report, was opposed to a lease, ed that it was necessary in any event to maintain *in and around* the islands l naval force for the protection of the same. This Report was followed slation under which a lease was executed in May 1870.

wing the terms of the lease and Regulations concerning the islands the tes permitted, in the then state of affairs, the lessees to take 100,000 seals wenty years, and they were permitted to make up this number from any of 1 year of age or over.

atives were allowed to destroy on the islands pup seals of either sex for ering in some years 5,000.

0,000 could be killed by the lessees in the months of June, July, Septem- tober.

8 of the Appendix to Mr. Blaine's note the opinion of the Committee of epresentatives is given to the effect that the protection of the islands is , but that the seals must be protected in their annual migrations to he rookeries, and for 50 miles south-east of the rookeries to their feeding- This is a far different proposal from that submitted by the Secretary of it does not embrace the whole of the Behring's Sea, but locates the feed- ls, so called, within 50 miles of the islands.

er points on p. 8 of the Appendix to Mr. Blaine's letter to Sir Julian of the 3rd instant, need hardly be dealt with in discussing the necessity season, reference being made therein to the sorting of the herd for killing as not to kill the females. This is admittedly wise, since the killing is June when the pups are being dropped. The rest of p. 8 of Mr. Blaine's um raises the point that a seal is not a fish.

9 testimony is cited, touching the necessity for not killing females on the when wholesale slaughter of 100,000 a-year goes on, and this is not here ed. The opinion of Mr. Glidden, whose experience was confined to the *ions*, regarding the proportion of seals recovered when shot in deep sea, of weight. It is, therefore, unnecessary to dwell upon the fact that he ment employé, giving his views in favour of his Government's contention ter the seizures of 1885 had taken place. This officer was on St. George d from the 25th of May to August in 1881 only. His opinion that an en policy" would not preserve the value of the seal fisheries, and that it is

necessary to protect the seals in Behring's Sea, as well as on the islands, is not based upon much practical knowledge. He further stated that not much hunting was done in the Pacific.

Honourable Mr. Williams, at p. 107 of Evidence before the Congressional Committee, says:

"Three miles beyond land (in Pacific) you do not see them; where they go no one knows."

The British Columbian sealers and the record of their catches in the Pacific for twenty years weakens the standing of these witnesses as experts.

Mr. Taylor, another witness, ascribes to the fish of Behring's Sea a very high order of intelligence. He deposes that in Behring's sea the seals eat a great many fish every twenty-four hours, and as "the fish have become well aware of the fact that there is a good many seals on the Seal Islands, they keep far out to sea." He stands alone in testifying so positively to what can, at best, be a matter for conjecture, and he fails to show he had the slightest means of ascertaining this knowledge. He further stated that the bulls remain on the islands all summer.

This is contradicted by writers and other United States witnesses, as will be seen hereafter. It is, therefore, evident that this gentleman was testifying simply to his own peculiar theories regarding seal life upon very limited experience. He says, at one place, that while the cows are out (and they go, he tells us, 10 to 15 miles, and even further) the sealers catch them; while at another place, he states:

"The sea is black with them *around the islands*, where they pick up a good many seal, and *there is where the killing of cows occurs—when they go ashore.*"

So that, evidently, he may have seen cows killed when *around the islands*, the only place at which he apparently could observe them, and he has merely conjectured the distance that they go from land and the number actually shot in deep water.

This witness "thinks there is some damage done in killing and shooting of the cows and leaving so many young without their mothers." There would be less doubt respecting the cows being shot or lost if it was satisfactorily shown that large numbers of young pups were found dead in the rookeries. The witness, if able, would have certainly pointed to this. The reverse, however, is the fact; and, with the exception of one witness before the Congressional Committee, whose evidence will be examined again, not an Agent of the Government nor a writer ever stated that pups were found dead in any numbers on the islands from loss of mothers; the fact being that mothers never go far from their young until the young are well able to care for themselves. This witness, notwithstanding his allusion to supposed damage by the killing of mothers, the killing of cows by vessels in shore—where the sea is black with them—had to admit, "the number of seal, in the aggregate, is not apparently diminished." His knowledge is confined to one year (1881), and we have better and undisputed testimony that long after this a great increase had taken place—an increase of millions. Mr. Taylor, it should be observed, however, gave other testimony than that quoted by Mr. Blaine. He said that—

"These predatory vessels are generally there (in Behring's Sea) in the spring of the year, when the cows are going to the island to breed; . . . most of the seals that are killed by these marauding vessels are cows with young."

He estimates the number taken in 1881 at from 5,000 to 8,000.

"These vessels will take occasion to hang around the islands, and when there is a heavy fog to go on the rookeries very often."

The chief damage, according to Mr. Taylor, is not the killing of mothers out at sea when their young are on shore depending upon the return of *their mothers*, as is contended, but it is due, he says, to the insufficient protection of the island. This can, as will be pointed out, be remedied if the suggestions of Government Agents are acted upon in the line of better police guarding of the rookeries.

Mr. Williams' testimony is next referred to on p. 10 of the Appendix to Mr. Blaine's letter. This gentleman was engaged in the whaling business for forty years (p. 73 of Evidence before Congressional Committee). As regards fur-seals, his knowledge is not based upon experience, but "from reading and from conversations with my captains" (p. 73). He was called by request of attorney for the Alaska Commercial Company, of which Mr. Williams was a stockholder.

No importance, it is submitted, can be attached to his testimony regarding the habits and nature of the seal after such a frank confession.

His evidence that females in pup mass together in the sea before landing may therefore be dismissed, since he does not produce any authority for a statement which is contradicted by expert testimony. Neither is his statement that hunters admit that out of eight shots they would save one seal only correct.

On pp. 11 and 12 of the Appendix Mr. Williams naturally gives his view for holding the control over seal life in Behring's Sea. It is not denied that every lessee of the Pribylov group would agree entirely with him in this. It may be remarked that he does not share the theory of the United States that the chief danger lies in killing the mothers when out in the deep sea for food, having left their nurslings on shore.

11, and 12 of the Appendix Mr. Williams is quoted to show that the
e females lies in the journey through the Aleutian Islands, with young,
ng-grounds. On p. 90 of his Evidence before the Committee, he illus-
effective means of protecting the rookeries by stating:
a schooner landed at one of the rookeries and killed seventeen cows and
ight on the breeding rookeries."
n, at p. 106, he says:
at the present measures are somewhat insufficient is shown by the fact
ast three or four years there have been increased depredations annually
eries.
e-cutter goes upon the grounds and then is ordered north for inspection,
of a whaling crew, or something of that kind, and they are gone pretty
ole time of the sealing season, and there appears to be insufficiency of
f protection."
e says:
ot them as they find them. . . . A vessel can approach within less
mile or a quarter of a mile of the island and not be seen (on account of
can send her boats on the beaches and get off fifty or a hundred skins
habitants can find it out."
Mr. Williams does not consider the shooting of females far from land is
ed in, as he insists that the damage is done inshore, where no police pro-
forced.
y of the rookeries given on pp. 12, 13, and 14 of the Appendix has been
lready in this paper.
nd 15 of the Appendix an article on fur-seals, from "Land and Water,"
77 by a Mr. Lee, is referred to.
alludes to the indiscriminate slaughter which was practised on the
hich no one defends or justifies.
rre, Superintendent of the seal fisheries of Alaska for the lessees, is then
rard by Mr. Blaine.
eman went to the island as a Government Agent to inspect the operations
any. His reports were favourable to and highly eulogistic of the Com-
ey were immediately followed by his resignation as a Government official
intment to a lucrative position under the Company.
ony is naturally more in favour of the Company and of the Govern-
ntion, which is so directly in the interest of the Company, than the
any other witness.
only one-fifth of the seals shot are recovered, and his reason is that he
als with bullets in their blubbers on the islands. He attributes a defi-
number of seals in 1888 to the fact that cows were killed. He men-
cows are killed in August, and their young deprived of their mothers'
ng perish. The young perish also if the mother is killed before they
this way he endeavours to represent such a practice obtains, but it is
n mind that he does not go so far as to say that pups are found dead on
n any number. When this officer was reporting on the operations of the
id before the present contention was raised, he gave a glowing account
using numbers of seals at the islands, as will be shown; but at p. 116 of
before the Congressional Inquiry he labours to reduce the estimates of
and Dall by one-third or one-half. He concludes that the number of
rgely decreased in the last two years (1887 and 1888). The Company,
led their 100,000 in each of these years. The Government had the dis-
duce the limit. The Government did not deem it necessary to do so.
, this witness says, was increasing until 1882, and then other parties
lling of seals, especially since 1884." All this told upon the rookeries,
ed, "a considerable percentage" of the killing was made up of male
nce, p. 117).
yre attempted to count the catch in 1886 and in 1887, and stated that
a-year were taken, nearly all in Behring's Sea water, and in a few
raids on the land. How he obtained this information is not shown.
sition on the Island of St. Paul during all that time his statement is
mere surmise.
nly know *personally* of the catch from raids which were made on the
and 1887, and which were due to ineffective protection of the islands.
us that a large percentage of the catch of the marauders was made up
es, he entirely forgets this, as we find him saying (at p. 118):
ty of the skins taken by marauders, in fact 80 or 90 per cent., are from

tted that this witness, whose interest on behalf of the Company (the
wn in his confession that it was at times necessary, in order to control
e markets, for the Company to take less than 100,000 seals (Evidence,

p. 121), has not strengthened his testimony on the main point by speaking positiv to the following, which could only have been known to him by hearsay:

(*a*) Russia destroyed marauding vessels.

(*b*) A British vessel, in 1887, took 450 seals in Behring's Sea, secreted them o small island, left them, and returned to the sea for more.

(*c*) Marauders kill 100,000 each season.

(*d*) It is not true that vessels are seized when pursuing legitimate business.

He goes on to say that for the first fifteen years of the Company's lease, viz., fr 1870 to 1885, the lessees were unmolested (p. 129), which statement has been sho to be incorrect. He observed that since 1882, and especially since 1884, other par have been destroying the seals, "reducing the equilibrium of the sexes." As w be submitted hereafter, he has been contradicted in regard to this by expert writ historians, travellers, and Agents of the United States Government.

Mr. H. W. Elliott, whose experience is limited to 1872, 1874, and 1876—when, Mr. McIntyre says, no injury was done by marauders—is next referred to by l Blaine (p. 16 of Appendix). He is referred to as a member of the Smithsonian In tute; he was also a special Agent of the Treasury.

The following are extracts taken from a "Report upon the Customs D
441 tricts, Public Service, and Resources of Alaska Territory, by W. L. Morr Special Agent of the Treasury Department, 1879":

"In the November number of 'Harper's Magazine,' 1877, appears an article entitl 'Ten Years' Acquaintance with Alaska, 1867-77.' The authorship is correctly ascrib to Mr. Henry W. Elliott, now connected with the Smithsonian Institution in su official capacity. This gentleman was formerly a special Agent of the Treasu Department, under a special Act of Congress, approved 22nd April, 1874, appointe for the purpose of ascertaining at that time the condition of the seal fisheries i Alaska, the haunts and habits of the seal, the preservation and extension of th fisheries as a source of revenue to the United States, with like information respec ing the fur-bearing animals of Alaska generally, the statistics of the fur trade an the condition of the people or natives, especially those upon whom the successfi prosecution of the fisheries and fur trade is dependent.

"This Report of Mr. Elliott will be further noticed hereafter, and, upon th threshold of criticizing anything he has written upon Alaska, occasion is here take to give him full credit for his valuable contribution in regard to fur-seals. It is t be regarded as authority and well conceived. The views of Mr. Elliott, howeve in reference to other matters of moment in the Territory, are so diametrically oppose and antagonistic to my own that I feel constrained to review some of his statement glittering generalities, and the wholesale method with which he brushes out of exis ence with his facile pen and ready artist's brush anything of any essence of valu light, shade, or shadow in the broad expanse of Alaska that does not conform pre cisely to the rule of investigation and recital laid down by himself, and which con tradicts his repeated assurances that outside of the Seal Islands and the immediat dependencies of the Alaska Commercial Company there is nothing in Alaska.

"This magazine article bears a sort of semi-official indorsement, its authority i not denied, and with this explanation for using the name of Mr. Elliott in connec tion therewith, a few of its crudities and nudities will be noticed:

"'*The Sense-keeper of Alaska.*

"'So little is known about Alaska that whenever anything comes up in Congres relating to it information is sought wherever it can readily be found. The "inform ant" is ever on hand, with his work on fur-seals comfortably tucked underneath hi left arm, to impart all the knowledge extant about the country, "for he knows mor about Alaska than any man living."

"'A decade has passed since we acquired this Territory, and for a decade it ha afforded employment and subsistence for its present sense-keeper; but the next decad is warming into national existence, and it is about time this bubble was pricked an the bladder not quite so much inflated.

"'I am fully aware of all the consequences to be dreaded, the responsibility as sumed, when rash enough to dispute the heretofore self-established authority fro the Arctic Ocean to the Portland Canal.'

"This man seems to be the natural foe of Alaska, prosecuting and persecuting he with the brush of the pencil and the pen of an expert whenever and wherever he ca get an audience, and I attribute the present forlorn condition of the Territory to-da more to his ignorance and misrepresentation than to all other causes combined. H is accused of being the paid creature and hired tool of the Alaska Commercial Com pany, and belonging to them body and soul. I have made diligent inquiry an ascertain he is not in their employ, and, furthermore, they repudiate the ownership They should not be held responsible for the indiscreet utterings of the sense-keeper notwithstanding the charge of ownership might cause him to be more readily list ened to.

› when they have been attacked through the columns of the press they
ıd this individual, who is unquestionably possessed with the *cacoethes*
eply to unjustifiable onslaughts, and paid him for it as they would any
iner who makes literature and writing for the press his profession."
:e in 1888 is open advocacy of the United States contention. His writ-
orts prior to the dispute will be referred to, and it will be submitted
›ments and experiences before 1888 hardly support his later theories.
t on p. 17 of the Appendix, that wounded seals swim away to perish at
· to be seen again, is contradicted by the last witness, Mr. McIntyre,
handfuls of buckshot, &c., out of seals clubbed on the islands. His
difficulty of shooting seals is contrary to the known practice of the
ɔep upon the seal as it lies floating in the calm waters of the sea, and
ɜstimony before quoted, of the unerring aim of the Indian hunters.
an Agent of the Treasury, in charge of the fur-seal islands from April
ɜt 1886, is quoted by Mr. Blaine (Appendix, p. 17).
is not able to go so far as Mr. McIntyre, although he was at the islands
ence, p. 153), but he stated "there has been a *slight* diminution of seals,
He estimated 30,000 were taken by marauders, and to do this he guesses
were killed. This gentleman, as an Agent of the Treasury, was con-
›lands during his tenure of office (Evidence, p. 153).
is contention on the log of a marauding schooner which fell into his
log was, it may be remarked, not produced, and no excuse is given for
it. He produced what he said was a copy. As his opinions are based
rious statement, his testimony can hardly be seriously pressed. He
solence of sealers when seized, though he does not appear to have been
y of the seizures. The log-book, it should be observed, is said to have
he "Angel Dolly."
t the name of a Canadian sealer, and it may here be stated that no
ler has ever been found within the 3-mile limit. The operations on the
›gel Dolly" must have been rather expensive, and they do not corrob-
›gation that large catches were made, since 300 rounds of ammunition
aid) were wasted for the capture of one seal.
pposed entry in the log is most extraordinary for the captain of a
any circumstances, to make. The statement referred to is as follows:
discouraging to issue a large quantity of ammunition to your boats
ew seals returned."
t a Magistrate's Court in the country that would listen to this oral testi-
he contents of a log. A reference to this pretended log—a copy of a
:of only being produced by Mr. McIntyre (p. 332 of Evidence)—shows
ain had an exceptionally bad crew. The captain described them in the
ms: "The hardest set of hunters in Behring's Sea;" *he* "never will be
such a crowd again; they are all a set of curs." The captain added,
t if "we only had hunters, we would be going home now with 1,500
very least;" and from the log it would appear that he had no regular
›ard.
ıy of remark that the statements made by Mr. Tingle respecting the
is alleged log are not confirmed by an inspection of the transcript Mr.
›duces (on p. 332 of Evidence).
contradicts Mr. McIntyre regarding the number of seals on the island.
tes (p. 162, Evidence) that there had been an increase of seals since
liott's count in 1876 of 2,137,500. He expressed natural astonishment
) at the statement of Mr. Elliott regarding a decrease. He says:
loss to know how Mr. Elliott gets his information, as he had not been
s for fourteen years."
the Chairman of the Committee by the following question, viz., "It is
ɜ's opinion that they have not only not increased, but have decreased,"
in reply, stated that "there has been a *slight* diminution of seals, *prob-*

uthority quoted by the United States is William Gavitt, a Special Agent
ury at St. George Island from May 1887 to August 1888. The evidence
ss is not referred to at any length by Mr. Blaine. The witness testified
ongressional Committee, however, that the employés of the Company
did not respect the laws of God or man. He named particularly Mr.
Luty John Kirk, and John Hall (p. 180). And he added that the rules
ıny were violated. The Committee handled this witness rather roughly,
ıaying to him (p. 188):
better understand what you are talking about."
e rebukes other officers of the Treasury who had testified positively to
ont the means of knowledge. The witness was asked:
ɜ the result of your observations and opinions that you deem reliable in
› unlawful killing of seal annually?"

The witness answered that—

"We have *no means* of knowing that."

He was then pressed in this way:

"It is a mere matter of estimate, of course, but I wish it based upon as reliable information as you have."

When the witness said—

"I think the first season the revenue-cutter captured 15,000 stolen skins (p. 191); where they were stolen, *whether in the sea or out of it, no agent could truthfully say.*"

He also showed that the lessees of the islands were not so particular as other Agents pretend, when he tells us (p. 191) that they bought from the natives at Ounalaska 5,000 seals killed by them, there (p. 196). The United States puts forward this officer as a reliable witness, and it is, therefore but fair to attach importance to a statement which weakens the force of the *ex parte* statement and opinion of the Special Agents sent from time to time to the islands, and who have now been brought forward on behalf of the United States as witnesses in support of a case which concerns not merely the Government, but most directly the lessees. The witness stated that one of the employés of the Company told him that when a Government officer came there and got along with the Company it was profitable. Upon being asked by the Committee, before whom he was giving evidence, to explain, he replied that—

"A man could draw two salaries, like Mr. Falkner and Judge Glidden, one from the Government and one from the Company" (p. 191).

Mr. Moulton's evidence is next presented (p. 19 of Appendix). He was a Government Agent from 1877 to 1885. He said that there was an apparent increase during the first five years, *i.e.*, to 1882, then a decrease to 1885 (Evidence, p. 255). In this statement he has been contradicted by official Reports, as will be shown.

The witness admits, however, that female seals, after giving birth to their young, *scatter* out in Behring's Sea; and he is of opinion that lawless hunters kill all they find, and that they find mothers away from their nurslings. No special reason for this opinion is given, however.

A sailor, Edward Shields, of Vancouver, formerly on the sealing-schooner "Caroline," is said to have testified, where and when it is not stated (p. 20 of Appendix to Mr. Blaine's letter), that in 1886 out of 686 seals taken by the "Caroline" the seals were chiefly females. Upon this, it may be said that it is the custom among hunters to class all seals the skins of which are the size or near the size of the female as "females," for their guidance as to the quality of skins in the catch. It may also be remarked that it does not appear that these females were in milk, and this is always known when skinning the seal. "Dry cows" are caught, as has been admitted, and taking this evidence, given *ex parte* as it was, it is at best, if true, an exceptional case in a very small catch.

Mr. Glidden was recalled by the Committee, and explained that his estimate of 40,000 skins was based on newspaper reports of the catch of the sealers. He was, of course, unable to show how many of these were taken near the Aleutian Islands, in the North Pacific, or on the west coast of British Columbia, or in the Puget Sound, but he evidently credits the whole estimated catch to Behring's Sea. Consequently he was of opinion that sealing in Behring's Sea should be ended, to lead to the better preservation of seal life.

It is to be observed that not one of these witnesses, whose opinions are relied upon both as to the catch, the habits, and sex of the seal in deep water and the method of shooting, &c., has had any experience as a hunter or with hunters. They were not experts. They were sent to the islands to see that the lessees performed their obligations as covenanted in the lease. The experience of most of them was limited to a few years' residence on the Seal Islands, associated with and under the natural influence of a Company admittedly a monopoly and desirous of restricting the catch so as to control the market of the world as far as seals are concerned.

None of the witnesses were, moreover, submitted to a cross-examination,
443 and they were to a large extent led by the examiners in the questions put to them. The only facts that were possibly within their knowledge relate to seal life on the islands, to the mode of killing, and to the times when killed there, and to their habits when in and upon the rookeries.

The opinions of the gentlemen given before the Congressional Committee in 1888, for the most part, though sometimes contradictory, are in favour of the undermentioned theories:

1. That the female seals while nursing their young go great distances in search of food.
2. That when out a great distance female seals are shot, and the pups on shore are lost for want of their mothers' care.
3. That the greater part of the catch in Behring's Sea is made up of female seals.
4. That the destruction of the seals when hunted on the sea is great in consequence of many wounded seals being lost.

All these opinions are put forward in support of the main proposition of the United States, viz., that since 1882, and especially since 1884, the number of seals usually collecting on the breeding-ground has constantly diminished.

The Canadian Government joins issue upon this, and the counter-assertion is made that there has been no appreciable diminution of seals frequenting the rookeries, and it is claimed that the seals are more numerous and more valuable upon the rookeries to-day than ever in their previous history; that this is the fact notwithstanding the rookeries have been for twenty years practically unprotected from frequent and most dangerous raids upon the actual breeding-grounds, and many other injuries, all within the control of the Government of the United States, as hereinafter specified.

The Canadian Government asserts that the seal life upon the islands cannot only be maintained, but greatly increased by the adoption on the part of the United States of—

1. An efficient means for the patrol and protection of the islands.
2. By the prohibition of the killing of pups by the natives for food.
3. By reducing the number of yearling seals to be killed by the lessees.
4. By not permitting any killing of seals upon the islands, excepting in July, August, and September.
5. By preventing the Aleuts from killing seals on their migration through the Aleutian Islands on their way to and from the breeding-grounds.

In Mr. Blaine's despatch to Sir Julian Pauncefote of the 27th January, 1890, he proceeds upon a somewhat different ground than the evidence already reviewed, in order to show the necessity for prohibition of sealing in the waters of Behring's Sea.

The *ex parte* evidence before the Congressional Committee satisfied that Committee that "the present number of seals on St. Paul and St. George Islands has materially diminished during the last two or three years," viz., from 1886 to 1889, while Mr. McIntyre, whose evidence is so much relied upon by the United States, dates the decrease from 1882.

Mr. Blaine, however, adopts the view that the rookeries were in prime condition and undiminished until 1885, when, as he says, Canadian sealers made their advent into Behring's Sea and the injury began.

It is therefore important to point out that the operations of the Canadian sealers were absolutely harmless compared with the numerous depredations upon the islands for the last century, which, however, have not yet begun to affect the value and number of seals on these wonderful rookeries.

Already evidence has been cited in this paper establishing the fact that extraordinary slaughter occurred prior to 1870, and that after all this, when the total number of seals on St. Paul and St. George Islands was admittedly less than now, it was deemed safe to permit 100,000 male seals of 1 year or over to be killed annually for twenty years, &c.

In 1870 Collector Phelps, of San Francisco, reported:

"I am assured the entire number taken south of the Islands of St. George and St. Paul will aggregate, say, 10,000 to 20,000 per annum." (H. R. Ex. Doc. No. 35, 44th Congress, 1st Session.)

The Acting Secretary of the Treasury Department, in September 1870, gave permission to the Company to use fire-arms *for protection of the islands against marauders.* (H. R., 44th Congress, 1st Session, Ex. Doc. No. 83, p. 30.)

In 1872 Collector Phelps, to Mr. Secretary Boutwell, reports expedition fitting out in Australia and Victoria for sealing in Behring's Sea with the object of capturing seals on their migrations to and from St. Paul and St. George Islands. Secretary Boutwell did not consider it expedient to interfere with these operations if they were carried on 3 miles from land.

In 1874 Mr. Secretary Sawyer, writing to Mr. H. W. Elliott, referred to British vessels taking fur-seals in the United States waters and to the seals becoming more numerous.

In 1875 Mr. William McIntyre, an Assistant Agent of the Treasury, describes having been told that the crew of the schooner "Cygnet," as she lay at anchor in Zapadnee Bay in 1874, were shooting seals from the deck, skinning them, and throwing the carcases overboard, which was alarming the seals and driving them from their breeding-grounds. And he said:

"I wished to give the captain of the vessel timely warning before proceeding to harsh measures. I had armed the natives with the intention of repelling by force any *attempts to kill seal on the rookeries or within rifle-shot of the shore*, if the crews still persisted in doing so after the receipt of my letter to the captain."

He described the operations of the "Cygnet" under the cliff near the rookery, which alarmed the seals so that they left the rookery in large numbers. (Ex. Doc. No. 83, p. 124, 44th Congress, 1st Session.)

This vessel is again reported by Special Agent Bryant in 12th May, 1875. (Ex. Doc. No. 83, p. 125, 44th Congress, 1st Session.)

From 1874 to 1878 Mr. F. J. Morgan, Attorney for the Alaska Company, was on the islands during the years 1868, 1869, and from 1874 to 1878. He speaks of several
444 raids upon the islands in his time, and he says the whole question is *one or more cruizers to protect the rookeries on the islands.* (H. R. Ex. Doc. No. 3883, 50th Congress, pp. 58, 71, 109.)

In 1875 the evidence of Darius Lyman contains the following information. (Report, Committee Ways and Means, House Report No. 623, 44th Congress, 1st Session.)

Answering Mr. Burchand as to what he knew about the seizure of the "San Diego," Mr. Lyman replied:

"There was a seizure made of the 'San Diego,' a schooner, near St. Paul Island, on the 27th July last (1875), on board of which were 1,660 fur-seal skins. The 'San Diego' was sent down to California, and arrived there in August."

On p. 73 of the same Report, Mr. Elliott, in answer to Mr. Chapin, says that the skins taken from the "San Diego" were from *Otter Island*, one of the leased group.

In 1880 Mr. McIntyre reported the estimated annual slaughter of 5,000 pregnant females on the British Columbia coast.

From Reports of Special Agent Ottis and Captain Bailey respecting the people of Alaska and their condition (Senate Ex. Doc. No. 132, 46th Congress, 2nd Session, vol. iv, p. 4), Captain Bailey says:

"During April and May all the coast Indians, from the mouth of the Straits of Fuca to the north end of Prince of Wales Island, find profitable employment in taking fur-seals which seem to be making the passage along the coast to the north, being probably a portion of the vast number that finally congregate at the Seal Island later in the season. I am informed by the Indians that most of the seals taken along this coast are females, and their skins find a market at the various Hudson Bay posts."

On p. 34 of the same Report, in a list of the vessels boarded, he gives the United States schooner "Loleta," Dexter master, seized at the Seal Islands by Special Agent Ottis.

In a Report by Special Commissioner Ivan Petroff in the year 1880, he says:

"As these seals pass up and down the coast as far as the Straits of Fuca and the mouth of Columbia River, quite a number of them are secured by hunters, who shoot or spear them as they find them asleep at sea. Also small vessels are fitted out in San Francisco, which regularly cruize in these waters for the purpose alone of shooting sleeping seal." (H. R. Ex. Doc. No. 40, 46th Congress, 3rd Session, vol. xviii, p. 65.)

At p. 61 of the same Report this officer speaks of the natives securing 1,200 to 1,400 young fur-seals *in transitu* through Oonalga Pass.

Special Agent D. B. Taylor, in 1881, states that the Company was powerless to protect the islands, but *that if a harbour was built and a steam-launch stationed at each island they could be protected.* He states that vessels *go to the islands and kill 10,000 to 15,000 a-year, and that 100 vessels have been prowling about these islands for twenty years.* (H. R. Ex. Doc. No. 3883, 50th Congress, p. 58.)

Mr. Treasury Agent H. A. Glidden, who was on the islands from 1882 to 1885, shows that the trouble is at *the islands.* The hunters go there on moonlight nights. He stated that he took possession of a vessel while the crew were on shore killing seals. The Government, he goes on to say, did not keep vessels there in his time, and he recommended that a revenue-cutter should be kept there to guard the islands. (H. R. Ex. Doc. No. 3883, 50th Congress, p. 28.)

Prior to the decision of the United States to arrest vessels outside the 3-mile limit in Behring's Sea experience had shown that the police force at the islands could not protect them from raids. This is illustrated in a letter from the Secretary of the Treasury, Mr. W. McCulloch, dated the 24th February, 1885, wherein he recommends that 25,000 dollars be obtained for the protection of seals and the enforcement of the laws:

"The seal fisheries," he states, "yield annually to the Government a revenue of about 300,000 dollars. The islands on which the seals are taken are protected from incursions of marauding vessels alone through the cruizing of the revenue-cutters. Last year the officers of the 'Corwin' seized a schooner engaged in taking seals unlawfully. Without the use of cutters the fur-seal industry has no protection."

The letter closes by asking for 25,000 dollars "in the Estimates for next year." (H. R. Ex. Doc. No. 252, 48th Congress, 2nd Session, vol. xxix.)

September 1, 1884, the Hamburgh schooner "Adèle" was seized for violation of section 1956, Revised Statutes, United States.

In 1884 Captain McLean, master of the schooner "Mary Ellen," was in Behring's Sea from the 8th July to the 22nd August. He took 2,007 seals, and was not interfered with. (See his declaration under Act for the Suppression of Extra-judicial and Voluntary Oaths.)

Mr. George Wardman, an officer of the United States Government, was at the Seal Islands May 1885. He was also there in 1879, and, in addition to his evidence before the Congressional Committee, he has reported to his Government, and has written a book upon Alaska and Behring's Sea, "Wardman's Trip to Alaska," published in

1884. At p. 116 of this is given an account of the raiding of Otter Islands, and the consequent request for a revenue marine guard at that place during the sealing season, which was granted.

In 1885 Captain McLean again visited Behring's Sea in the "Mary Ellen." He was there from the 4th July to the 3rd September. He took 2,300 seals, and was not interfered with.

Captain Healy, in reporting on the cruize of the "Corwin" in the Behring's Sea, in 1885, when speaking of the seal fisheries, said:

"During the year quite a number of vessels have raided Alaskan waters for seals and other fur-bearing animals." (H. R. Ex. Doc. No. 153, 49th Congress, 1st Session, vol. xxxii.)

In 1886 the Governor of Alaska, in his Report for that year (p. 43), states that an indiscriminate slaughter was carried on *previous* to the seizures of 1885.

In 1886 Special Agent Tingle, to Secretary Fairchild, congratulated the Government on the arrest of the "San Diego," which he called "an old offender."

445 "This," Mr. Tingle remarked, "will do much to break up marauding business *around the islands*." He further urged the Government to keep a cutter *about the islands* from the 1st July to the 1st November.

The above references, it is submitted, establish conclusively the defenceless condition of the islands from the depredations of the marauders or poachers upon the rookeries (not one being a Canadian) ever since the islands came into the possession of the United States.

Mr. Blaine, in his despatch of the 27th January, 1890, remarks that—

"Proceeding by a close obedience to the laws of Nature, and rigidly limiting the number to be annually slaughtered, the Government succeeded in increasing the total number of seals and adding correspondingly and largely to the value of the fisheries."

And in the same despatch he speaks of the profitable pursuit of this business down to the year 1886.

To show that at the present time the value of the islands is greater and their condition is better than ever, it is only necessary to observe that while the late lessees paid to the Government of the United States an annual rental of 50,000 dollars in addition to 2 dol. 62½ c. per skin for the total number taken, the offers, when the islands were put up for competition in 1890, were enormously exceeded, as will be seen on reference to a schedule of the proposals submitted to the United States Treasury Department in response to the advertisements of the Treasury inviting offers for the privileges, dated the 24th December, 1889, and the 20th February, 1890.

Upon reference to the evidence before the Congressional Committee (H. R. No. 3883, 50th Congress, 2nd Session), it will be seen that "the Government now, *without any care or risk*, gets 317,000 dollars a-year for the lease." And at p. 99 of the same Report it is stated that the annual income from skins to the Government was 512,736 dollars, and that in sixteen years the United States Government received from the Alaskan fur-seal industry 8,203,776 dollars.

It is further stated that the Government had then already been repaid the capital sum paid for the whole Territory of Alaska, and more, with "her many varied, and, as I believe, incomparably great national resources, to represent the investment of capital first made."

"Fifth.—*The Receipts and Expenses of the Government on account of said Contract.*

"The total amount paid by the lessees on account of said contract up to the 30th June, 1888, inclusive, was 5,597,100 dollars. The total amount expended by the Government during the same period was about 250,000 dollars for salaries and travelling expenses of Agents of the Treasury Department at the Seal Islands, and about 150,000 dollars for the revenue-cutters cruizing Alaskan waters.

"To the amount already received direct from the Company should be added the sum received by the United States from customs duties on Alaskan-dressed sealskins imported from Europe, amounting to 3,426,000 dollars, to which should be added the sum of 502,000 dollars customs duties on imported sealskins taken by said Company under its contract with Russia, making an aggregate amount received by the Government on account of this industry of 9,525,233 dollars, being 2,325,283 in excess of the amount paid to Russia for the Territory." (Report of Congress, 1888.)

It can now be shown how marvellous has been the increase of seals on these islands, notwithstanding the absence of the protection to the rookeries and 3-mile limit, whether around the islands or at the different passes in the Aleutian range, where the breeding seals in pup go twice a-year.

In 1869 Special Agent Bryant estimated the number of seals to be as follows (41st Congress, 2nd Session, No. 32, Senate, p. 7):

"On St. Paul Island	1,152,000
On St. George Island	576,000
Total	1,728,000

In 1874, Mr. Elliott, after examination, estimated the number of seals to be:

"On St. Paul Island	3,030,000
On St. George Island	163,420
Total	3,193,420

exclusive of non-breeding seals, and adding those to the estimate of Mr. Elliott just quoted, he himself said that the total would reach 4,700,000."

In 1884, long after the period when Mr. McIntyre stated that the seals were decreasing—as he said since 1882—Mr. Wardman, when writing from the islands, tells us—

"The number of seals is steadily increasing." ("A Trip to Alaska," p. 93.)

Mr. H. A. Glidden, an Agent of the Treasury from 1882 to the 8th June, 1885, an authority quoted by Mr. Blaine in support of the United States contention, told the Congressional Committee in 1888, in replying to the question, "What do you say about the increase or diminution of the number of seals on the rookeries of St. Paul and St. George?"

"I did not notice any change. . . . . I could not see any particular difference. They come and have their young and go away. The period of gestation is eleven months, and then they come back in the spring following. They are there during the season in countless numbers." (Evidence before Congressional Committee, p. 27.)

Mr. George R. Tingle, a Special Agent of the Treasury, gave his evidence before the same Committee, and he is put forward by Mr. Blaine in support of the United States contention. (Appendix to Mr. Blaine's letter to Sir Julian Pauncefote, March 1, p. 17.)

Confirming Mr. Glidden's opinion, as above quoted, Mr. Tingle said:

"From Mr. Elliott's statement I understand that there are no more seals *now* than there were in 1872. I am at a loss to know how Mr. Elliott got his information, as he had not been on the islands for fourteen years."

446 The same Mr. Tingle, in 1887, reported to Secretary Fairchild that:

"He found the lines of occupancy extending beyond those of last year, and the cows quite as densely packed on the ground on most of the rookeries, whilst on two rookeries there is some falling-off. *It is certain*, however, this vast number of animals, so valuable to the Government, are still on the increase. The condition of all the rookeries could not be better." (Appendix to Report, Congressional Committee, 1888, p. 359.)

In a Report of the Alaska Commercial Company (13th December, 1887) it is stated that Mr. George R. Tingle, the Agent appointed by the Secretary of the Treasury, substantially confirms Mr. Elliott in his view referred to above, excepting that, upon a careful survey by himself in 1886, he estimated that the fur-seals upon the two islands had increased in number about 2,000,000 up to that time. Mr. Tingle's estimate for 1886 is 6,537,750 (H. R. Ex. Doc. No. 31, 50th Congress, 1st Session), and in December the Alaska Commercial Company, in their Report, said that the seals were on the increase.

The latest definite information appearing in the United States documents regarding the condition of the rookeries is contained in the Report of Mr. Tingle, who, as Special Agent of the Treasury Department, wrote from St. Paul Island, Alaska, the 31st July, 1888, as follows:

"I am happy to be able to report that, although late landing, the breeding rookeries are filled out to the lines of measurement heretofore made, and some of them much beyond these lines, showing conclusively that seal life is not being depleted, but is fully up to the estimates given in my Report of 1887."

From the above United States officials it is clear that, with only partial protection on the islands, the seals have increased in an amazing degree. These islands, containing in 1874 the largest number of seals ever found in the history of sealing at any place, contain to-day a more astounding number.

When the number was less than half of what it is at present, Lieutenant Washburn Maynard, of the United States navy, was instructed to make an investigation into the condition of the fur trade of the Territory of Alaska, and in 1874 he reported that 112,000 young male seals had been annually killed in each year, from 1870 to 1874, on the islands comprising the Pribylov group, and he did not think that this diminished the numbers. Lieutenant Maynard's Report (44th Congress, 1st Session, H. R. No. 43), as well as that of Mr. Bryant in 1869 (Ex. Doc. No. 32, 41st Congress, 2nd Session), largely supports the contention of the Canadian Government respecting the productiveness of the seal and their habits during the breeding season.

It is not denied that seals enter Behring's Sea for the purpose of resorting to the islands to propagate their species, and because the immense herd is chiefly confined to the islands for this purpose during the breeding season it is that the seals have so constantly increased.

Notwithstanding the lax efforts on the part of the United States to guard or patrol the breeding islands, the difficulty of approaching the rough coats thereof, the prevalence of fogs, and other causes, have, in a large degree, prevented too destructive or too numerous raids being made upon the rookeries.

The Canadian Government contends that while seals in calf are taken on and off the coasts of British Columbia and California, and also during their migrations near the Aleutian Islands by Indians and Aleuts, the bulk of the seals taken in the open sea of that part of the Pacific Ocean called Behring's Sea are bulls, both old and young—but chiefly young—and that most of the cows, when taken, are known as "dry cows," *i. e.*, cows that have nursed and weaned their young, or cows that are barren, or those that have lost pups from natural causes.

It must also be noted that there are more females than males in a herd of seals. ("Trip to Alaska," Wardman, p. 94.)

The position taken by the Canadian Government is supported—

1. By the history of the rookeries as above given and the great increase shown, despite the constant killing and raids upon the islands during the past century.

2. By the fact that the old bulls that have been able to hold their position on the rookeries go into the water at the end of the rutting season, between the 1st and 10th August. (H. R. Ex. Doc. No. 83, 44th Congress, 1st Session, Appendix, p. 132.)

Mr. Clark, on the Antarctic seal fisheries, in "The Fisheries and Fishery Industries in the United States," 1887, pp. 423, 424, says:

"In very stormy weather, when they (the seals) are driven into the sea, they are forced to betake themselves to the sheltered side of the island, hence the men find that stormy weather pays them best. Two or three old males, termed 'beach-masters,' hold a beach to themselves and cover it with cows, but allow no other males to haul up. The males fight furiously, and one man told me that he had seen an old male take up a younger one in his teeth and throw him into the air. The males show fight when whipped, and are with great difficulty driven into the sea.

"They are sometimes treated with horrible brutality. The females give birth to the young soon after their arrival.

"After leaving the rookeries the bulls do not return to them again that season."

3. By the fact that two-thirds of all the males that are born are never permitted to land upon the same ground with the females. This large band of bachelors, *when it visits land*, herds miles away from the breeding-grounds. (H. W. Elliott, H. R. No. 383, 50th Congress, p. 112.)

They are driven off into the water. (Clark's article on Antarctic seal fishery industries of the United States, section 5, vol. ii, 1887, p. 431.)

Young seals are prevented from landing on rookeries. (Ex. Doc. 83, 44th Congress, 1st Session, p. 93; see also Elliott, H. R., 44th Congress, 1st Session, Ex. Doc. No. 83.)

Yearling seals arrive about the middle of July, accompanied by a few of the mature males, remaining a greater part of the time in the water. (H. H. McIntyre, 41st Congress, 2nd Session, H. R. No. 36, p. 14; also H. R. Ex. Doc. 43, 1st Session, 44th Congress, p. 4.)

Mr. Samuel Falkner, Assistant Treasury Agent, writing from St. George Island, 1st August, 1873, to Mr. Bryant, Treasury Agent for the Seal Islands, says:

447 "I notice on some of the rookeries the passage-ways, formerly occupied by young bachelors in hauling upon the background, are completely blocked up by females, thus preventing the young seals from landing; and as the greater portion of this island shore is composed of high cliffs, it renders it difficult for any great number to effect a landing. There are also numerous old males constantly guarding the shore line, which makes it still more difficult for the young ones to work their way on the background.

Then, again, it must be remembered that non-breeding seals, consisting of all the yearlings and all the males under 6 or 7 years of age, nearly equal in number the breeding seals, and Mr. Elliott estimated, when there were 4,700,000 seals on the island, 1,500,000 of this number were non-breeding seals. (Elliott, Appendix to H. R. Ex. Doc. No. 83, 44th Congress, 1st Session, p. 79.)

On thick foggy days bachelor seals, numbering over a million, will often haul out on different hauling-grounds, and on the recurrence of fine weather disappear into the water. (Elliott, p. 144, H. R., 44th Congress, 1st Session, Ex. Doc. No. 83.)

The young bachelors do not remain on shore long at a time. (Page 4, 44th Congress, 1st Session, Ex. Doc. No. 43.)

They are so numerous, however, that thousands can be seen upon the hauling-grounds, as all of them are never either on shore or in the water at the same time. (*Ibid.*, p. 44.)

By the fact that the cows remain with their pups and suckle them until all have left.

They do not go on the rookeries until 3 years of age. (H. R. Ex. Doc., 44th Congress, 1st Session, No. 43, p. 4.)

They do not go far from shore until the young are reared. Peron says that both parent elephant seals stay with the young, without feeding at all, until the young are 6 or 7 weeks old, and that then the old ones conduct the young to the water. (Clark's article on Antarctic seals, p. 424.)

The young are suckled by the females for some time and then left to themselves, lying on the beach, where they seem to grow fat without further feeding. ("The Fisheries and Fishing Industries of the United States," section 5, vol. ii, 1887, p. 424.) For this reason those that are pupped in June are off in the water in August.

So, also, on the African coast, the seal remains until the young can take care of themselves. (*Ibid*, p. 416.)

The bulk of the seals are confined to the islands until ice surrounds them. (H. R. Ex. Doc. No. 45, 44th Congress, 1st Session, p. 2.)

The seals never leave their places, seldom sleep, and never eat anything from May to August, when they take to the water, but, it is believed, take no food until their final departure in November. (H. H. McIntyre, H. R. Ex. Doc. No. 36, 41st Congress, 2nd Session, vol. v.)

Mr. Elliott says, "perhaps she feeds" (p. 130, his Report on Alaska, 1874, H. R. Ex. Doc. No. 83, 44th Congress).

The bulls, while on the island, prevent the mothers taking to the water. ("Marine Mammals," by Captain Shannon, United States Revenue Marine, 1874, p. 152.)

From the 10th to the 25th July the rookeries are fuller than at any other time during the season, as the pups have all been born, and all the bulls, cows, and pups *remain within their limits*. (H. R. Ex. Doc. No. 43, 44th Congress, 1st Session, p. 3.)

It has been shown that when in the rookeries mothers were destroyed, the young were found dead, &c., but Professor Elliott, in reference to the Pribylov Islands, says:

"With the exception of those animals which have received wounds in combat, no sick or dying seals are seen upon the islands.

"Out of the great numbers, thousands upon thousands, of seals that must die every year from old age alone, not one have I ever seen here. They evidently give up their lives at sea." (His Report on Alaska, 1874, H. R. Ex. Doc. No. 83, 44th Congress, p. 150.)

To further prove that the contention of the Canadian Government is not at all unreasonable, it may be said that at the International Fisheries Exhibition, London, 1883, Mr. Brown Goode, of the United States Fish Commission, having stated the Regulations of the United States concerning the Pribylov group, the official Report upon the Exhibition says:

"Every animal, both in sea and on land, reproduces its kind in greater numbers than can possibly exist. In other words, all animals tend to multiply more rapidly than their food; many of them must in consequence either die or be destroyed, and man may rest satisfied that, so far as the open ocean is concerned, the fish which he destroys, if he abstain from destroying, would perish in other ways. With respect to the former (seals), I have already pointed out that the restriction which the United States Government has placed on the destruction of seals in the Alaskan islands seems unnecessarily large."

He added that Nature has imposed a limit to their destruction.

Professor Elliott himself was of the opinion in 1874 (see his Report on Alaska already referred to, pp. 88, 89) that:

"With regard to the *increase* of the seal life, I do not think it within the power of human management to promote this end to the slightest appreciable degree beyond its present extent and condition in a state of nature; for it cannot fail to be evident, from my detailed description of the habits and life of the fur-seal on these islands during a great part of the year, that, could man have the same supervision and control over this animal during the *whole* season which he has at his command while they visit the land, he might cause them to multiply and increase, as he would so many cattle, to an indefinite number, only limited by time and means; but the case in question, unfortunately, takes the fur-seal six months out of every year far beyond the reach, or even cognizance, of any one, where it is exposed to known powerful and destructive natural enemies, and many others probably unknown, which prey upon it and, in accordance with a well-recognized law of Nature, keep it at about a certain number, which has been for ages, and will be for the future, as affairs now are, *its maximum limit of increase*. This law holds good everywhere throughout the animal kingdom, regulating and preserving the equilibrium of life in a state of nature. Did it not hold good these seal islands and all Behring's Sea would have been literally covered, and have swarmed with them long before the Russians discovered them; but there were no more seals when first seen here by human eyes in 1786-87 than there are now, in 1874, as far as all evidence goes.

* * * * * * *

"What can be done to promote their increase? We cannot cause a greater number of females to be born every year; we do not touch or disturb these females as they grow up and live, and we save more than enough males to serve them. Nothing more

can be done, for it is impossible to protect them from deadly enemies in their wanderings for food.

"This great body of four and five millions of hearty active animals must consume an enormous amount of food every year. They cannot average less than 5 lbs. of fish each per diem (this is not half enough for an adult male), which gives the consumption of over *three million tons* of fish every year!

"To get this immense food supply the seals are compelled to disperse over a
448 very large area of the North Pacific and fish. This brings them into contact more and more with their enemies as they advance south, until they reach a point where their annual destruction from natural foes is equal to their increase, and at this point their number will remain fixed. About the Seal Islands I have failed to notice the least disturbance among these animals by anything in the water or out, and from my observation I am led to believe that it is not until they descend well to the south in the North Pacific that they meet with sharks and voracious killer-whales." *

The following extract from the Report of Mr. H. H. McIntyre, Special Agent of the Treasury at the islands in 1869, largely supports the foregoing views:

"The habits of the fur-seal are peculiar and, in considering the action necessary to their protection, deserve careful attention. From the statements of the employés of the late Russian-American Company, the information derived from the intelligent native Chief of St. Paul Island, and my own observation during the summer of 1869, I have reached the following conclusions: The seals reach the Islands of St. Paul and St. George in May, June, and July of each year in the following order—first, a small number of old male seals, known as *wigs*, visit the islands very early in the spring, or as soon as the ice has melted sufficiently to allow them to reach the rocks upon the shore. Their object at this time seems to be solely to reconnoitre their old rookeries with a view to reoccupy them, if they have not been disturbed, and the natives, so understanding it, avoid any noise likely to alarm them, and in case the wind is in such direction as to carry the smoke from the Settlement towards the rookeries all fires are extinguished. After a few days these pioneers take their departure, and as the season advances, if they have been undisturbed on the occasion of their first visit, they return, bringing with them all the males of mature age, above 5 or 6 years old, who are able to maintain their places in the breeding rookeries. Climbing up on the rocks, each seal selects his position and takes possession of and occupies through the season, if sufficiently strong, from one to three square rods of ground. Still later in the season, when the ice has nearly disappeared, the females arrive, conveyed by the young males above one year of age, who are unable to occupy the rookeries with their seniors. The females, immediately on reaching the shore, are appropriated by the old males and taken to the places respectively selected by them for the season, which is generally the same for many successive years. It is asserted that the same male seal has been known to occupy one rock for more than twenty seasons. The young seals above one year of age, called bachelors, take their positions around the edges of the rookeries or remain in the water, and are constantly trying to steal the females from their respective masters, who also rob each other of their families, by stealth or strength, whenever occasion offers; and thus an incessant quarrel is maintained at all points, which keeps the old males constantly on the alert. They never leave their places, seldom sleep, nor do they eat anything whatever during the entire season from May to August, when they go into the water; but, as far as can be ascertained, take no food until their final departure in November. It may be remarked, however, that they are very fat on arrival and quite as lean at the time of leaving in autumn. The young seals are supposed to feed while in the water, but this has not been definitely proved, nor is the nature of their food well known, since an examination of their stomachs seldom reveals more than a green mucilaginous matter. Following all others, the yearling seals arrive about the middle of July, accompanied by a few of the older males, and remain for the greater part of the time in the water. Soon after their arrival in the months of June and July the females bring forth their young." (Ex. Doc., 41st Congress, 2nd Session, No. 36, p. 14.)

Reference has been made to the raids upon the rookeries, and to the fact that insufficient care has been taken of the breeding-ground. It is contended that it is the duty of the Government, drawing an enormous rental from these islands, to carefully guard and protect them, and it is undoubted that, with efficient protection, the increase of seal life will be more marvellous than ever.

Mr. Tingle, in 1886, in his Report to Secretary Fairchild, urges the Government to keep a cutter around the islands from the 1st July to the 1st November.

* "In the stomach of one of these animals (year before last) *fourteen* small harp-seals were found."—*Michael Carroll's Report, Canadian Fisheries, 1872.*

Mr. Morgan, in 1888, in his evidence before Congress (p. 23), said there were not sufficient cutters for the protection of the islands, and Mr. Wardman, Special Agent of the Treasury at the islands, 1881 to 1885, said:

"I think the Government ought to keep at least one revenue-steamer therein and about these two islands up until the middle of October at least. The trouble has been in the Revenue Marine Service. The appropriations were all right, and a fellow would be sent up to nominally protect the Seal Islands, but he would also be ordered to look for the North Pole as well as watch the Seal Islands. He might find the North Pole, but not around the Seal Islands. He would be away just at the time he would be needed around there." (Evidence before Congressional Committee, p. 38.)

The Honourable Mr. Williams said:

"The Government practice, through the Treasury Department, has been to protect these waters so far as they could with the revenue-cutters which are at their command. Still it has frequently happened that a revenue-cutter goes upon the seal ground and then is ordered north for inspection, or for the relief of a whaling crew or something of that kind, and they are gone pretty much the whole time of the sealing season, and there seems to be an insufficiency in the method of protection." (Evidence before Congressional Committee, p. 106.)

Mr. Taylor, Special Agent of the Treasury in 1881, said, before the same Committee (p. 58):

"The difficulty heretofore has been that our revenue-cutters have been obliged to cover a territory of 800 miles long and 700 or 800 miles wide, north and south, and they would get around to the Seal Islands about twice during a season. They never happened to be there when needed, and, as far as rendering any service whatever is concerned, they were practically useless so far as the Seal Islands were concerned. That has been the experience, I believe, of all who have been there."

This officer recommended steam-launches for Government Agents at the islands. (Evidence before Congressional Committee, p. 109.)

Mr. Glidden, another Agent of the Treasury from 1882 to 1885, says (Evidence, Congressional Committee, p. 28) when he was at the islands the Government kept no vessels there.

"They landed our officers on a little island 6 miles from St. Paul to watch. . . . In every Report I made I recommended that they should keep a revenue-cutter there. One vessel cannot protect those islands and visit the Arctic Ocean besides. The cruizing-ground is far too extensive, covering, as it does, a distance of several thousand miles, and while the cutter is absent in the Arctic much damage can be done by the marauding vessels to the Seal Islands."

That Congress regarded it at the outset as the duty at least of the Administration to simply guard and regulate the islands, is clear from the Act first dealing with the subject.

Mr. Boutwell, the Secretary of the Treasury, reported in 1870 (41st Congress, 2nd Session, Ex. Doc. No. 109) as follows:

"A suggestion has been made to this Department, in various forms, that the Government should lease these islands for a long period of time to a Company or firm for an annual sum of money, upon the condition that provision should be made for the subsistence and education of the natives, and that the fisheries themselves should be preserved from injury. This plan is open to the very grave objection that it makes a monopoly of a branch of industry, important not only for the people of the islands, but to the people of the United States, if the preparation and manufacture of the skins for use should be transferred from London to this country.

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Such a monopoly is contrary to the ideas of the people, and not many years would pass before serious efforts would be made for its overthrow. Moreover, the natives of the islands would be under the control of the Company, and as the expiration of the lease approached, the inducements to protect them and preserve the fisheries would diminish, especially if the Company saw, as would probably be the case, that it had no hope of a renewal of its privileges. Under these circumstances the Government of the United States would necessarily be subjected to great expense and trouble.

"For these reasons, briefly stated, but valid, as they appear to me, I cannot concur in the suggestion that the islands should be leased to any Company for a period of years.

"Inasmuch as it will be necessary for the Government of the United States to maintain in and around the islands a military and naval force for the protection of its interests under any plan that can be devised, I am of opinion that it is better that the Government should assume the entire control of the business of the islands, and exclude everybody but its own servants and agents; that it should establish a rigid system of police, excluding from the islands distilled spirits and fire-arms, and subject vessels that touch there to forfeiture, except when they are driven to seek shelter or for necessary repairs. The conditions of such occupancy and control by the Government of the United States seem to me to be these:

st, the exclusion of other parties; 2nd, the supply to the natives of such arti-
s they are accustomed to use; 3rd, compensation to the natives for their labour,
he payment of a sufficient additional sum each year to enable them to live in
anner to which they have been accustomed; 4th, an equitable division of the
of the skins over the payments made to the natives, and the cost to the Gov-
nt of the United States of maintaining such force as is necessary for the pro-
n of the business.

he portion of the surplus equitably belonging to the natives might be set aside
e purpose of education and religious teaching, the erection of more suitable
ings than they now possess, and generally for their physical, intellectual, and
improvement.

the Government were to lease the islands it would not be possible to withdraw
ly the military and naval forces, or to neglect a careful supervision, and the
onal expense consequent upon retaining possession of the business of the
ls in the hands of the Government would not be large.

dinarily, I agree in the opinion that a Government, especially one like that of
nited States, is not adapted to the management of business; but this clearly is
ness which cannot be left open to individual competition, and if it is to be a
poly, whether profitable or otherwise, the interest of the Government is so large,
he expenses incident to the protection of these islands so great, that it cannot
to substitute to any extent the monopoly of an individual or of a Company
own lawful supervision.

ould the Government fail in the attempt to manage the business through its
gents, there will then be opportunity to lease the fisheries to private parties;
y opinion is that a larger revenue can be obtained from them by actual man-
nt than by a lease.

further reply to the Resolution, I have to say that the skins taken in 1868
removed by Messrs. Kohl, Hutchinson, and Co., the Solicitor of the Treasury
of the opinion that the Government had no legal authority to detain them.
taken in 1869 are upon the islands, but no decision has been made touching
ghts of the Government.

concluding this Report I desire to call the attention of Congress to the fact
t is necessary to legislate immediately so far as to provide for the business of
resent year. The natives will commence the capture of seals about the 1st

the islands are to be leased for the present year it should be done immediately,
he lessee may make provision for the business of the year. If the business of
resent year is to be conducted by the Government, as I think it should be, what-
ur future policy, legislation is necessary; and I suggest that the Secretary of
reasury be authorized to appoint Agents in Alaska who shall be empowered to
intend the capture of the seals and the curing of the skins; and that an appro-
on shall be made of 100,000 dollars, out of which the natives shall be paid for
bour performed by them, and the other expenses incident to the business met.
he Secretary of the Treasury should also be authorized to sell the skins at pub-
ction or upon sealed proposals at San Francisco or New York, as he may deem
for the interest of the Government.

should be observed in this connection that the Government derived no benefit
ver from the seal fishery of the year 1868, and that the skins taken in 1869 are,
ally at least, the property of two Companies, while the Government, during
st year, has furnished protection to the natives and the fishery, and has no
nce at present that it will derive any benefit whatever therefrom.

legislation is long delayed the business of the year 1870 will be but a repetition
t of 1869."

ile the Canadian contention is supported, as has been seen, by many extracts
the Reports of officials of the United States Government, it is apparent that
eaire of the lessees, and indirectly that of the officials, has been to create a
poly in the fur-seal industry, since in this way the market for the skins is
y enhanced and the value of the islands greatly increased.

is, no doubt, one reason for the divergent opinions entertained as to the best
ations for the preservation of seal life between those who control the islands
ose who are compelled to hunt the seals in the ocean.

upport of the above assertion the following authorities are in point:

Bryant, in 1869 (Senate Ex. Doc. No. 32, 41st Congress, 2nd Session), stated that
rge number taken in 1867 and in 1868 decreased the London valuation to 3 and
ars a skin.

Moore, in a report to the Secretary of the Treasury (H. R. Ex. Doc. No. 83, p. 196,
Congress, 1st Session), says, when alluding to the avisability of killing more
han prescribed by the Act of the 1st July, 1870:

seems that the 100,000 fur-seals from our own islands, together with the
obtained by them from the Asiatic islands, besides the scattering fur-seals

killed in the South Seas, are all the market of the world can conveniently take. In fact, it is pretty evident the very restriction of the numbers killed is about the most valuable part of the franchise of the Alaska Commercial Company, and it is only another proof of the absurdity of the frequent charges made against them that they surreptitiously take from our islands 20,000 or 30,000 more seals than they are entitled to take.

* * * * * * * *

"There does not exist any doubt, nor indeed is it denied by the Alaska Commercial Company, that the lease of the Islands of St. Paul and St. George is highly lucrative. The great success of this franchise is, however, owing, as far as I could ascertain, to three principal causes: 1st, the Alaska Commercial Company, owing to the fact that they have the sole control of the three Asiatic islands on which fur-seals are found, as well as on our own islands, as St. Paul and St. George, virtually manage the sale of 80 per cent. of all the fur-seals killed annually in the world; 2ndly, the arbitrary and somewhat eccentric law of fashion has raised the price of fur-seals in the markets of the world during the last four years fully 100 per cent. in value; 3rdly, time and experience have given this controlling Company most valuable advantages. For instance, in the Island of St. Paul, where a reputed number of from 3,000,000 to 3,500,000 of seals congregate, the comparatively small quantity only of formerly 75,000 and now 90,000 are killed. The Company employs experts in selecting easily the kind that are the most valuable in the market, and have no difficulty in getting 90,000 out of a flock of 3,000,000 to 3,500,000, which are the select of the select; and it is owing to this cause, and to the care taken in avoiding cuts in the skins, as also in properly preparing them for the market, that the high prices are obtained. Indeed, the fact is that a fur-seal selling now in London for 2*l.* 10*s.* or 3*l.* is, owing to its superior quality and excellent condition, cheaper than the fur-seals which five years ago fetched 30*s.* sterling. The former mode of the indiscriminate killing of fur-seals was as detrimental to the value of the skins as it was to the existence of the breed. With such a valuable franchise, secured by a contract that has still fifteen years to run, but which could, without notice, be terminated by the Secretary of the Treasury for cause, it would indeed be a suicidal policy on the part of the Company to infringe on the stipulations of the contract."

All this is explained in the evidence before the Congressional Committee, pp. 77, 101, 105, and 121, where the Company is shown not to have taken the full quota in two years:

"Not because we could not get enough seals, but because the market did not demand them. There were plenty of seals." (Evidence before Congressional Committee, p. 121.)

450 Mr. McIntyre, once a Special Agent, has already been quoted, and was afterwards in the service of the Company, reported, in 1869, to the Speaker of the House of Representatives, Mr. Blaine (H. R. Ex. Doc. No. 36, 41st Congress, 2nd Session), that—

"The number of skins that may be secured, however, should not be taken as the criterion on which to fix the limit of the yearly *catch*, but rather the demand of the market, keeping of course always within the annual production. It appears that under the Russian management a much larger number was sometimes killed than could be advantageously disposed of. Thus in 1803, after the slaughter had been conducted for some years without regard to the market, an accumulation of 800,000 skins was found in the storehouses on the islands, 700,000 of which were thrown into the sea as worthless. At several times since that date the market has been glutted, and sales almost or quite suspended. A few months previously to the transfer of Alaska to the United States sealskins were worth in London only 1 dol. 50 c. to 3 dollars each, and several thousand skins owned by the Russian-American Company were sold to parties in San Francisco, at the time of the transfer, at 50 cents to 1 dol. 25 c., a sum insufficient to pay the present cost of securing and transporting them to that city. Soon afterwards, however, fur-seal garments became fashionable in Europe, and in the expectation that the usual supply would be cut off by reason of the transfer of Alaska, prices advanced to 4 to 7 dollars per skin; contrary to the expectation of dealers more than 200,000 skins were taken by the various parties engaged in the business on the islands in 1868, and the London price has declined to 3 or 4 dollars per skin; and I am assured that if the raw skins now held by dealers in London were thrown upon the market, a sufficient sum to pay the cost of transportation from the islands could hardly be realized. The number of raw skins now upon the market is not less than 350,000, and it is predicted that several years must elapse before the demand will again raise the price above the present rate, if indeed the large surplus of skins does not carry it much lower before reaction begins."

Many of the dangers to seal life have been mentioned, and it has been shown that the herd still thrives; but the wonderful productiveness of the seal is further shown

on to a danger greater than all the assaults of man in the deep sea, a
existing, which naturally tends to keep the seals inshore, or, when
catter.
is made to the killer-whales and sharks. (H. R. Ex. Doc. No. 83, 44th
t Session, p. 177, and pp. 80, 87 of Appendix to the same document; also
idence before Congressional Committee, 1888):
se animals are preyed upon extensively by killer-whales (*Orca gladiator*)
and by sharks and probably other submarine foes now unknown, is at
t; for were they not held in check by some such cause they would, as
o-day on St. Paul, quickly multiply, by arithmetical progression, to so
tent that the island, nay, Behring's Sea itself, could not contain them.
annual killing of 100,000 out of a yearly total of over 1,000,000 males
an appreciable degree diminish the seal life, or interfere in the slightest
ular, sure perpetuation on the breeding-grounds every year. We may,
roperly look upon this aggregate of four and five millions of fur-seals as
every season on these Pribylov Islands as the maximum limit of increase
them by natural laws. The great equilibrium which Nature holds in
is earth must be sustained at St. Paul as well as elsewhere." (Elliott's
62, 64.)
efore the Committee of Ways and Means on the 17th March, 1876, on the
n before alluded to, Mr. Elliott made a similar statement, giving in
reater detail the reasons for his conclusions. His evidence will be found
the Report of the Committee." (Report No. 623, H. R., 44th Congress, 1st

ig the practice of sealing as known in Canada, it may be said:
sealers start out upon their sealing voyages some time in the beginning
. The vessels go down to a point off San Francisco, and from thence
. The seals taken by them off the coast are of both sexes, many in pup,
g bulls; very few old bulls run in the Pacific Ocean.
h of each vessel will average between 500 and 700 seals a-year between the
ary and the end of May.
untrained crew is taken, many shots may be fired without hitting the
, since the novice expects he can hit when at a considerable distance, the
ch cases escaping entirely, but with Indian hunters and expert whites a
rly always captured when hit. An expert never shoots until after he has
close quarters, and generally when the seal is asleep.
ing's Sea the catch is made up largely of young bachelors.
captains contend that no male becomes fit for the rookeries until 6 years of age.
ntention is supported by the authorities to whom reference has already been

rther contended that should a temporary diminution of seal life become
upon the islands of the Pribylov group it would not follow that the herds
easing. Professor Elliott, in his Report of 1874 upon Alaska, so frequently
to in this paper, argues, on pp. 265 and 266, that in such a case a corre-
augmentation may occur in Copper or Behring Island, since "these animals
rticularly attached to the respective places of their birth:"
it appears to me necessary that definite knowledge concerning the Com-
slands and the Kuriles should be possessed; without it, I should not hesitate
t any Report made by an Agent of the Department as to a visible dimi-
the seal life on the Pribylovs, due in his opinion to the effect of killing, as it
ted, was without good foundation; that this diminution would have been
ast the same in all likelihood had there been no taking of seals at all on
ds, and that the missing seals are more than probably on the Russian
"

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te on the Question of the Protection of the Fur-Seal in the North Pacific.

orge Dawson, D. S., F. G. S., F. R. S. C., F. R. M. S., Assistant Director of the Geological Survey of Canada.]

de of protection which is apparently advocated by the United States Gov-
in the case of the fur-seal, viz., that of leasing the privilege of killing the
a the breeding-grounds and prohibiting its capture elsewhere, is a new
in the matter of such protection. If, indeed, the whole sweep of the
ean north of the Equator was dominated and effectively controlled by the
tates, something might be said in favour of some such mode of protection
mmercial point of view, but in the actual circumstances the results would
irely in favour of the United States, and so completely opposed to the
nd natural rights of citizens of all other countries, that it is preposterous
e that such a mode of protection of these animals can be maintained.

Stated briefly, the position of the United States in the matter appears to be based on the idea of allowing, for a money consideration, the slaughter of the maximum possible number of seals compatible with the continued existence of the animals on the Pribylov Islands, while, in order that this number shall not be reduced, no sealing is to be permitted elsewhere.

451 Such an assumption can be based, in this case, on one or other only of two grounds:

1. That Behring's Sea is a *mare clausum*.
2. That each and every fur-seal is the property of the United States.

Both claims have been made in one form or other, but neither has, so far as I know, been officially formulated.

The first is simply disproved by the geographical features of Behring's Sea, by the fact that this sea and Behring's Strait contribute the open highway to the Arctic and to part of the northern shore of Canada, by the previous action of the United States Government when this sea was nearly surrounded by Russian territory, and by the fact that from 1842 to the date of the purchase of Alaska fleets of United States and other whalers were annually engaged in Behring's Sea. It is scarcely possible that any serious attempt will be made to support this contention. (Bancroft's History, vol. xxxiii, Alaska, p. 583 *et seq.*)

The second ground of claim is candidly advanced by H. W. Elliott, who writes:

"The fur-seals of Alaska, collectively and individually, are the property of the General Government. . . . . Every fur-seal playing in the waters of Behring's Sea around about the Pribylov Islands, no matter if found so doing 100 miles away from those rookeries, belongs there, has been begotten and born thereon, and is the animal that the explicit shield of the law protects. No legal sophism or quibble can cloud the whole truth of my statement. . . . . The matter is, however, now thoroughly appreciated and understood at the Treasury Department, and has been during the past four years, as the seal pirates have discovered to their chagrin and discomfiture." (United States 10th Census, vol. viii, Fur-Seal Islands, p. 157.)

Waiving for the moment the general objection which may be raised to the enforcement of such a principle on the high seas, an enforcement which the United States, in the interest of the Alaska Fur Company, appear to have undertaken, the facts upon which the assumption are based may be questioned. Mr. Elliott, in fact, himself writes, on the same page (referring to the presence of a large sealing fleet in Behring's Sea), that it could not fail "in a few short years in so harassing and irritating the breeding seals as to cause their withdrawal from the Alaska rookeries, and probable retreat to those of Russia, a source of undoubted Muscovite delight and emolument, and of corresponding loss and shame to us."

This remark implies that the seals may resort to either the Pribylov or the Russian islands, according to circumstances; and who is to judge, in the case of a particular animal, in which of these places it has been born? The old theory, that the seals returned each year to the same spot, has been amply disproved. Elliott himself admits this, and it is confirmed (*op. cit.*, p. 31) by Captain Charles Bryant, who resided eight years in the Pribylov Islands as Government Agent, and who, having marked 100 seals in 1870, on St. Paul Island, recognized, the next year, four of them in different rookeries on that island, and two on St. George Island. (Monograph on North American Pinnipedes, Allen, 1880, p. 401.)

It is, moreover, by no means certain that the fur-seals breed exclusively on the Russian and United States Seal Islands of Behring's Sea, though these islands are no doubt their principal and important breeding-places. They were formerly, according to Captain Shannon, found in considerable numbers on the coast of California; and Captain Bryant was credibly informed ("Marine Mammals of Coast of North-West North America," pp. 152, 154, quoted by Allen, *op. cit.*, p. 332) of the existence in recent years of small breeding colonies of these animals on the Queen Charlotte Islands of British Columbia. Mr. Allen further quotes from the observations of Mr. James G. Swan, Field Assistant of the United States Commissioner of Fish and Fisheries:

"Mr. Swan" (I quote from Mr. Elliott), "has passed near an average lifetime on the north-west coast, and has rendered to natural science and to ethnology efficient and valuable service."

His statements may therefore be received with respect. He writes:

"The fact that they (the fur-seals) do bear pups in the open ocean, off Fuca Strait, is well established by the evidence of every one of the sealing captains, the Indians, and my own personal observations. Dr. Power says the facts do not admit of dispute. . . . It seems as preposterous to my mind to suppose that all the fur-seals of the North Pacific go to the Pribylov Islands as to suppose that all the salmon go to the Columbia or Fraser River or to the Yukon."

To this Professor D. S. Jordon, the well-known naturalist, adds:

"I may remark that I saw a live fur seal pup at Cape Flattery, taken from an old seal just killed, showing that the time of bringing them forth was just at hand."

tatements Mr. Allen himself remarks:
servations, aside from the judicious suggestions made by Mr. Swan, are
terest as confirming those made some years ago by Captain Bryant, and
fly recorded in this work. They seem to show that at least a certain
ur-seals repair to secluded places, suited to their needs, as far south as
of Cape Flattery, to bring forth their young." (Allen, *op. cit.*, pp. 411,

t, of course, stoutly denies the authenticity of all these observations, it
ary to do so in order to maintain his contention as to the ownership of
States Government, or the Alaska Fur Company, as the case may be, in

ber been often stated that the killing of fur-seals in the open sea off the
ic coast is a comparatively new departure, while it is, as a matter of
y certain that the Indians of the whole length of that coast have pur-
led these animals from time immemorial. As the value of the skins has,
ly of late years become fully known and appreciated, it is naturally
btain much trustworthy evidence of this without considerable research.
an, however, be adduced. Thus, Captain Shannon described the mode
eals in canoes employed by the Indians of Vancouver Island, and refers
re of seals by the Indians off the Straits of Fuca, where, he adds, they

ars as early as the 1st March, and more or less remain till July or
they are most plentiful in April and May. *During these two months the*
s devote nearly all their time to sealing when the weather will permit."
43 to 1864 only a few dozen skins are known to have been taken annually,
1869 fully 5,000 were obtained. Mr. Allen, writing in 1880, states that—
the winter months considerable numbers of sealskins are taken by the
ritish Columbia, some years as many as 2,000." (Allen, *op. cit.*, pp. 332,

ction of the fur-seals from extermination has from time to time been
dvanced as a sufficient reason for extraordinary departures from the
lly paid to private property and to international rights; but any pro-
d on the lease of the breeding-grounds of these animals as places of
nd an attempt to preserve the seals when at large and spread over the
ey are during the greater part of each year, is unfair in its operation,
principle, and impracticable in enforcement.
to the interests of the Indians of the north-west coast, it is true that a
ber of Aleuts now on the Pribylov Islands (398 in all, according to
dependent on the sealing business for subsistence, but these islands were
when discovered by the Russians, who brought these people here for
nvenience. Further south along the coast the natives of the Aleutian
he south-east coast of Alaska, and of the entire coast of British Colum-
n, and still are, accustomed annually to kill considerable numbers of
it would be unjust to interfere with, even were it possible to carry out
ons with that effect. The further development of oceanic sealing affords
to, and serves as a mode of advancement and civilization for, these
is one of the natural industries of the coast. No allusion need be made
riptive rights of the white sealers, which are well known.
ndness of this principle of conservation is shown by what has occurred
ern Hemisphere in respect to the fur-seals of that region. About the
f the century very productive sealing-grounds existed in the Falkland
guelen Islands, Georgian Islands, the west coast of Patagonia, and many
similarly situated, all of which were in the course of a few years almost
tripped of seals, and in many of which the animal is now practically
is destruction of the southern fur-sealing trade was not caused by pro-
aling at sea, but entirely by hunting on and around the shores, and, had
s been protected as breeding-places, the fur-seals would in all probability
s abundant in the south to-day as they were at the date at which the
enced.
acticability of preventing the killing of seals on the open sea, and of
atrolling the North Pacific for this purpose, is sufficiently obvious. The
over, when at sea (in marked contrast with their boldness and docility in
ng-places) are extremely wary, and the number which can be obtained by
unting at sea must always be small as compared with the total. Elliott,
es that the seal, when at sea, "is the shyest and wariest your ingenuity
" (*Op. cit.*, p. 65.)
ion is such that at the present time the perpetuation or the exterminа-
fur-seal in the North Pacific as a commercial factor practically depends
the regulations and restrictions which may be applied by the United
he Pribylov Islands, and now that this is understood a regard for the

general interest of its own citizens, as well as for those of other countries, demands that the extermination or serious depletion of the seals on their breeding-islands should be prevented. It is probably not necessary for this purpose that the killing of seals on these islands should be entirely prohibited. Both Elliott and Bryant show good reason for believing that a large number of seals may be killed annually without reducing the average aggregate number which can find suitable breeding-grounds on these islands, and after the very great reduction in numbers which occurred, owing to an inclement season about 1836 (Elliott), or 1842 (Bryant), the seals increased very rapidly again, and in a few years being nearly as numerous as in 1873, when the total number on the islands was estimated at over 4,700,000.

By retaining an efficient control of the number of seals to be killed on the Pribylov Islands, and by fixing this number anew each season in accordance with circumstances, the United States Government will be in position to counteract the effect of other causes tending to diminish the number of seals, whether climatic or resulting from the killing of a large number at sea. There is no reason to apprehend that the number of seals which might thus be safely killed on the islands would, under any circumstances, be so small as to fail to cover the cost of the administration and protection of the islands. If such a policy as this, based on the common interests in the preservation of the seals, were adopted, it might be reasonable to agree (for the purpose of safeguarding the islands and for police purposes) that the jurisdiction of the United States in this matter should be admitted to extend to some greater distance than this usual one of 3 marine miles, though, as shown further on, the necessary distance would not be great.

The situation of the Pribylov Islands and the habits of the seal together cause the problem of its preservation to be one of extreme simplicity if approached from the point of view of protection on and about the islands, but one of very great difficulty if looked at from any other standpoint. The long-continued and presumably accurate observations which have been made on the habits of the seals show that during the entire breeding season they are very closely confined to the immediate shores of the breeding islands, and that neither in arriving nor in departing from these islands do they form schools or appear together in such numbers as to render promiscuous slaughter at sea possible. The old bulls actually remain on shore during the entire breeding season, while the females, though leaving their young from time to time for the water, are described as haunting the immediate vicinity of the shores just beyond the line of surf. Even the bachelor seals (Elliott, *op. cit.*, pp. 45, 64, *et passim;* Allen, *op. cit.*, p. 386), which constitute a distinct body while ashore and are not actually engaged in breeding or protecting the young, are said to remain close to the shore. If, however, any seals are to be found at this time going to or returning from the sea at some distance from land, these belong to the "bachelor" class, which is the very class selected for the killing by the fur Company. The young
453 females, after leaving the islands in the year of their birth, do not return at all till after reaching maturity in their third year. (Allen, *op. cit.*, p. 402.)

The evidence obtained by Captain Bryant shows that while "small groups of small seals (apparently 1 and 2 years old)" are met with at large in Behring's Sea during July and August, no considerable numbers of schools are to be found. (Allen, *op. cit.*, p. 411.)

It is thus apparent that the perfect security of the seals actually engaged in breeding and suckling their young may be secured without extending the limits of protection beyond the usual distance of 3 miles from the shores of the breeding islands, but that for the purpose of increasing the facilities of supervision a somewhat wider limit might reasonably be accorded. Possibly by defining an area inclosed by lines joining points 3 miles off the extreme headlands and inlets of the Pribylov group, an ample and unobjectionable area of protection might be established.

It is allowed by all naturalists that the habits of the fur-seals of the Southern Hemisphere are identical with those of the seal of the North Pacific, and it is therefore admissible to quote the observations of Dampier on Juan Fernandez Island in further confirmation of the fact that these animals go only for a very short distance from land during the breeding season, even when in immense multitudes on the shore. Dampier writes:

"Here are always thousands, I might say possibly millions of them, either sitting on the bays or going and coming in the sea round the islands, which is covered with them (as they lie at the top of the water playing and sunning themselves) *for a mile or two from the shore.*" ("A New Voyage Round the World," 1703; quoted by Allen, *op. cit.*, p. 334.)

These rookeries have, like others in the south, been long since depleted and abandoned.

The circumstance that the female fur-seal becomes pregnant within a few days after the birth of its young, and that the period of gestation is nearly twelve months, with the fact that the skins are at all times fit for market (though for a few weeks, extending from the middle of August to the end of September, during the progress

of the shedding and renewal of the longer hair, they are of less value) show that there is no natural basis for a close season generally applicable. Thus, should any close season be advocated, its length and the time of year during which it shall occur can only be determined as a matter of convenience and be of the nature of a compromise between the various interests involved. The pelagic habits of the seals during fully six months of each year, and the fact that they are during the entire winter season widely dispersed over the Pacific, constitute a natural and unavoidable close season. It is thus only possible, from a commercial point of view, to kill the seals during the period of their approximate concentration for migration or when in Behring's Sea. This is the period fixed by Nature during which seals may be taken, and any artificial close season can be effective only if applied to the further curtailment of the time at which it is possible to carry on the fishery. It may be assumed, therefore, as such a close season for seal-hunting at sea must be purely arbitrary and artificial, that any close season proposed by the United States or the lessees of the Seal Islands will be chosen entirely in the interest of sealing on shore, and so arranged as to render the time of sealing on the open sea as short and unprofitable as possible. It is thus important that the sea-going sealers should at least have an equal voice in the matter of the time and duration of a close period if such should be contemplated.

(Signed) GEORGE M. DAWSON.

MARCH 5, 1890.

No. 322.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 26.)

[Telegraphic.]

WASHINGTON, *April 26, 1890.*

I have received the amendments proposed by the Canadian Government in my new draft Convention referred to in my despatch of the 11th instant. I propose to submit the draft Convention to the Conference on Tuesday, with the amendments, unless your Lordship instructs me otherwise.

No. 323.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 30.)

[Telegraphic.]

WASHINGTON, *April 30, 1890.*

I have sent the draft Convention to Mr. Blaine, with a letter supporting our counter-proposal.

I sent your Lordship copies by post yesterday.

454

No. 324.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 5.)

WASHINGTON, *April 25, 1890.*

MY LORD: In obedience to your Lordship's instructions conveyed to me in your telegram of the 15th March, I have the honour to inform you that I communicated copies of my despatches of the 7th and 11th February, respecting the assessment of damages for seizure in Behring's Sea, to Mr. Tupper, in order that he might consult his colleagues on the subject during his visit to Ottawa.

I have now the honour to inclose a copy of the letter in which he informs me of the views of the Dominion Government as to the procedure to be followed.

From this letter it appears that the Canadian Government desire that I should endeavour to assess the amount of damages with Mr. Blaine, but that they would prefer a modification of the procedure suggested on the proposed reference to arbitration.

I have the honour to request that I may be informed whether your Lordship approves of the modification in Mr. Blaine's proposal suggested by the Canadian Government, and, if so, whether I am authorized to accept that proposal as so modified on behalf of Her Majesty's Government.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 324.]

Mr. Tupper to Sir J. Pauncefote.

WASHINGTON, *April 19, 1890.*

DEAR SIR JULIAN PAUNCEFOTE: Referring to the copies of your despatches of the 7th and 11th February, addressed to Lord Salisbury, and which you handed to me, I have now to inform you that during my visit to Ottawa I discussed with my colleagues the subject to which they refer.

In the despatch of the 7th February you say Mr. Blaine was willing "to examine and assess the damages with me on the same principle as if the liability of his Government were admitted, then to refer the question of liability to some eminent jurisconsult for decision on written statements and answers submitted by the two Governments respectively."

It will be agreeable to the Canadian Government that you should endeavour to assess the amount of damages with Mr. Blaine.

Touching Mr. Blaine's proposal for ascertaining the liability, my colleagues think that it would be preferable to the mode suggested that a statement of the case should be made, setting out all the facts connected with the action of the Revenue cutters of the United States concerning Canadian sealing-vessels, their crews, cargoes, papers, &c., in Behring's Sea, and the question propounded upon such a statement should be whether the conduct of the United States in the premises was justifiable under the principles of international or natural law.

The question "on written statements and answers submitted by the Governments respectively" should be submitted to two eminent Judges, one to be, say, the Chief Justice of the United States, the other an eminent member of the English Judiciary, to be named by the British Government.

Yours, &c.

(Signed) CH. H. TUPPER.

No. 325.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *May 5, 1890.*

SIR: With reference to your letter of the 14th March last, I am directed by the Marquis of Salisbury to transmit herewith a copy of a despatch from Her Majesty's Minister at Washington,* inclosing a copy of a letter addressed to him by Mr. Tupper, explaining the views of the Dominion Government as to the procedure to be followed
455 in the proposed assessment of damages claimed on behalf of the owners of the British vessels seized in Behring's Sea.

*No. 324.

I am to request that, in laying this letter before Secretary Lord Knutsford, you will move him to furnish Lord Salisbury with any observations he may have to offer in regard to the modifications in Mr. Blaine's proposal suggested by the Canadian Government.

I am, &c.

(Signed) P. CURRIE.

No. 326.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 8.)

WASHINGTON, *April 29, 1890.*

MY LORD: With reference to my despatch of the 11th instant, I have the honour to inclose copy of a letter which I have this day addressed to Mr. Blaine inclosing the draft of a Convention which I have prepared for the settlement of the Behring's Sea Fisheries question, and which has the approval of the Canadian Government.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 326.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *April 29, 1890.*

DEAR MR. BLAINE: At the last sitting of the Conference on the Behring's Sea Fisheries question you expressed doubts, after reading the Memorandum of the Canadian Minister of Marine and Fisheries, which by your courtesy has since been printed, whether any arrangement could be arrived at that would be satisfactory to Canada.

You observed that the proposal of the United States had now been two years before Her Majesty's Government, that there was nothing further to urge in support of it, and you invited me to make a counter-proposal on your behalf. To that task I have most earnestly applied myself, and while fully sensible of its great difficulty, owing to the conflict of opinion and of testimony which has manifested itself in the course of our discussions, I do not despair of arriving at a solution which will be satisfactory to all the Governments concerned. It has been admitted from the commencement that the sole object of the negotiation is the preservation of the fur-seal species for the benefit of mankind, and that no considerations of advantage to any particular nation or of benefit to any private interest should enter into the question.

Such being the basis of negotiation, it would be strange, indeed, if we should fail to devise the means of solving the difficulties which have unfortunately arisen. I will proceed to explain by what method this result can, in my judgment, be attained. The great divergence of views which exists as to whether any restrictions on pelagic sealing are necessary for the preservation of the fur-seal species, and, if so, as to the character and extent of such restrictions, render it impossible, in my opinion, to arrive at any solution which would satisfy public opinion either in Canada or Great Britain, or in any country which may be invited to accede to the proposed arrangement, without a full inquiry by a Mixed Commission of Experts, the result of whose labours and investigations in the region of the seal fishery would probably dispose of all the points in dispute.

As regards the immediate necessities of the case, I am prepared to recommend to my Government, for their approval and acceptance, certain measures of precaution which might be adopted provisionally and without prejudice to the ultimate decision on the points to be investigated by the Commission. These measures, which I will explain later on, would effectually remove all reasonable apprehension of any depletion of the fur-seal species, at all events pending the Report of the Commission.

It is important in this relation to note that while it has been contended on the part of the United States Government that the depletion of the fur-seal species has already commenced, and even that the extermination of the species is threatened within a measureable space of time, the latest Reports of the United States Agent, Mr. Tingle, are such as to dissipate all such alarms.

Mr. Tingle, in 1887, reported that the vast number of seals was on the increase, and that the condition of all the rookeries could not be better.

456 In his later Report, dated the 31st July, 1888, he wrote as follows:

"I am happy to be able to report that, although late landing, the breeding rookeries are filled out to the lines of measurement heretofore made, and some of them much beyond those lines, showing conclusively that seal life is not being depleted, but is fully up to the estimate given in my Report of 1887."

Mr. Elliot, who is frequently appealed to as a great authority on the subject, affirms that such is the natural increase of the fur-seal species that these animals, were they not preyed upon by killer-whales (*Orca gladiator*), sharks, and other submarine foes, would multiply to such an extent that "Behring's Sea itself could not contain them."

The Honourable Mr. Tupper has shown in his Memorandum that the destruction of seals caused by pelagic sealing is insignificant in comparison with that caused by their natural enemies; and he gives figures exhibiting the marvellous increase of seals in spite of the depredations complained of. Again, the destructive nature of the modes of killing seals by spears and fire-arms has apparently been greatly exaggerated, as may be seen from the affidavits of practical seal-hunters which I annex to this letter,* together with a confirmatory extract from a paper upon the "Fur Seal Fisheries of the Pacific Coast and Alaska," prepared and published in San Francisco, and designed for the information of Eastern United States Senators and Congressmen.

The Canadian Government estimate the percentage of seals so wounded or killed and not recovered at 6 per cent.

In view of the facts above stated, it is improbable that pending the result of the inquiry which I have suggested any appreciable diminution of the fur-seal species should take place, even if the existing conditions of pelagic sealing were to remain unchanged.

But in order to quiet all apprehension on that score I would propose the following provisional Regulations:

1. That pelagic sealing should be prohibited in the Behring's Sea, the Sea of Ochotsk, and the adjoining waters, during the months of May and June, and the months of October, November, and December, which may be termed the "migration periods" of the fur-seal.

2. That all sealing-vessels should be prohibited from approaching the breeding islands within a radius of 10 miles.

These Regulations would put a stop to the two practices complained of as tending to exterminate the species; (1) the slaughter of female seals with young during migration periods, "especially in the narrow passes of the Aleutian Islands; (2) the destruction of female seals by marauders surreptitiously landing on the breeding islands under cover of the dense fogs which almost continuously prevail in that locality during the summer.

Mr. Taylor, another Agent of the United States Government, asserts that the female seals (called "cows") go out from the breeding islands every day for food. The following is an extract from his evidence.

"The cows go 10 and 15 miles, and even further—I do not know the average of it—and they are going and coming all the morning and evening. The sea is black with them round about the islands. If there is a little fog, and they get out half-a-mile from shore, we cannot see a vessel 100 yards even. The vessels themselves lay around the islands there, where they pick up a good many seal, and there is where the killing of cows occurs when they go ashore."

Whether the female seals go any distance from the islands in quest of food, and, if so, to what distance, are questions in dispute. But, pending their solution, the Regulation which I propose against the approach of sealing-vessels within 10 miles of the islands for the prevention of surreptitious landing practically meets Mr. Taylor's complaint, be it well founded or not, to the fullest extent; for, owing to the prevalence of fogs, the risk of capture within a radius of 10 miles will keep vessels off at a much greater distance.

This Regulation, if accepted by Her Majesty's Government, would certainly manifest a friendly desire on their part to co-operate with your Government and that of Russia in the protection of their rookeries, and in the prevention of any violation of the Laws applicable thereto.

I have the honour to inclose the draft of a Preliminary Convention which I have prepared, providing for the appointment of a Mixed Commission, who are to report on certain specified questions within two years.

The draft embodies the temporary Regulations above described, together with other clauses which appear to me necessary to give proper effect to them.

Although I believe that it would be sufficient during the "migration
457 periods" to prevent all sealing within a specified distance from the passes of

* See Appendix 1 in Colonial Office letter of November 30, 1889, pp. 355–357.

the Alentian Islands, I have, out of deference to your views and to the wishes of the Russian Minister, adopted the fishery line described in Article V, and which was suggested by you at the outset of our negotiation.

The draft, of course, contemplates the conclusion of a further Convention, after full examination of the Report of the Mixed Commission. It also makes provision for the ultimate settlement by arbitration of any differences which the Report of the Commission may still fail to adjust, whereby the important element of finality is secured; and in order to give to the proposed arrangement the widest international basis, the draft provides that the other Powers shall be invited to accede to it.

The above proposals are, of course, submitted *ad referendum*, and it only now remains for me to commend them to your favourable consideration and to that of the Russian Minister. They have been framed by me in a spirit of justice and conciliation, and with the most earnest desire to terminate the controversy in a manner honourable to all parties, and worthy of the three great nations concerned.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 2 in No. 326.]

THE NORTH AMERICAN SEAL FISHERY CONVENTION.

Draft Convention between Great Britain, Russia, and the United States of America, in relation to the Fur-seal Fishery in the Behring's Sea, the Sea of Ochotsk, and the adjoining waters.

Preamble.

The Governments of Russia and of the United States having represented to the Government of Great Britain the urgency of regulating, by means of an International Agreement, the fur-seal fishery in Behring's Sea, the Sea of Ochotsk, and the adjoining waters, for the preservation of the fur-seal species in the North Pacific Ocean, and differences of opinion having arisen as to the necessity for the proposed Agreement, in consequence whereof the three Governments have resolved to institute a full inquiry into the subject, and pending the result of such inquiry, to adopt temporary measures for the restriction of the killing of seals during the breeding season without prejudice to the ultimate decision of the questions in difference in relation to the said fishery:

The said three Governments have appointed as their respective Plenipotentiaries, to wit:

Who, after having exchanged their full powers, which were found to be in good and due form, have agreed upon the following Articles:

ARTICLE I.

Mixed Commission of Experts to be appointed.

The High Contracting Parties agree to appoint a Mixed Commission of Experts, who shall inquire fully into the subject, and report to the High Contracting Parties within two years from the date of this Convention the result of their investigations, together with their opinions and recommendations on the following questions:

1. Whether Regulations properly enforced upon the breeding islands (Robin Island in the Sea of Ochotsk, and the Commander Islands and the Pribyloff Islands in the Behring's Sea) and in the territorial waters surrounding those islands are sufficient for the preservation of the fur-seal species.

2. If not, how far from the islands is it necessary that such Regulations should be enforced in order to preserve the species?

3. In either of the above cases, what should such Regulations provide?

4. If a close season is required on the breeding islands and territorial waters, what months should it embrace?

5. If a close season is necessary outside of the breeding island as well, what extent of waters and what period or periods should it embrace?

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ARTICLE II.

On receipt of Report of Commission, question of International Regulations to be forthwith determined.

On receipt of the Report of the Commission, and of any separate Reports which may be made by individual Commissioners, the High Contracting Parties will proceed forthwith to determine what International Regulations, if any, are necessary for the purpose aforesaid, and any Regulations so agreed upon shall be embodied in a further Convention, to which the accession of the other Powers shall be invited.

ARTICLE III.

Arbitration.

In case the High Contracting Parties should be unable to agree upon the Regulations to be adopted, the questions in difference shall be referred to the arbitration of an impartial Government, who shall duly consider the Reports hereinbefore mentioned, and whose award shall be final, and shall determine the conditions of the further Convention.

ARTICLE IV.

Provisional Regulations.

Pending the Report of the Commission, and for six months after the date of such Report, the High Contracting Parties agree to adopt and put in force as a temporary measure, and without prejudice to the ultimate decision of any of the questions in difference in relation to the said fishery, the Regulations contained in the next following Articles Nos. V to X inclusive.

ARTICLE V.

Seal fishery line.

A line of demarcation, to be called the "seal fishery line," shall be drawn as follows:

From Point Anival at the southern extremity of the Island of Saghalien in the Sea of Ochotsk, to the point of intersection of the 50th parallel of north latitude with the 160th meridian of longitude east from Greenwich, thence eastward along the said 50th parallel to its point of intersection with the 160th meridian of longitude west from Greenwich.

ARTICLE VI.

Close time.

The subjects and citizens of the High Contracting Parties shall be prohibited from engaging in the fur-seal fishery and the taking of seals by land or sea north of the seal fishery line from the 1st May to the 30th June, and also from the 1st October to the 30th December.

ARTICLE VII.

Prevention of marauders.

During the intervening period, in order more effectively to prevent the surreptitious landing of marauders on the said breeding islands, vessels engaged in the fur-seal fishery, and belonging to the subjects and citizens of the High Contracting Parties, shall be prohibited from approaching the said islands within a radius of 10 miles.

ARTICLE VIII.

Further provisional Regulations.

The High Contracting Parties may, pending the Report of the Commission, and on its recommendation or otherwise, make such further temporary Regulations as may be deemed by them expedient for better carrying out the provisions of this Convention and the purposes thereof.

ARTICLE IX.

Penalty for violation of provisional Regulations.

Every vessel which shall be found engaged in the fur-seal fishery contrary to the prohibitions provided for in Articles VI and VII, or in violation of any Regulation made under Article VIII, shall, together with her apparel, equipment, and contents, be liable to forfeiture and confiscation, and the master and crew of such vessel, and every person belonging thereto, shall be liable to fine and imprisonment.

ARTICLE X.

Every such offending vessel or person may be seized and detained by the naval or other duly commissioned officers of any of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them, and the Court adjudicating upon the case may order such portion of the fines imposed, or of the proceeds of the condemned vessel, to be applied in payment of the expenses occasioned thereby.

Seizure for breach of provisional Regulations. Trial of offences.

459 ARTICLE XI.

This Convention shall be ratified, and the ratifications shall be exchanged at in six months from the date thereof, or sooner if possible. It shall take effect on such day as shall be agreed upon by the High Contracting Parties, and shall remain in force until the expiration of six month after the date of the Report of the Commission of Experts to be appointed under Article I; but its duration may be extended by consent.

Ratification. Commencement and duration of Convention.

ARTICLE XII.

The High Contracting Parties agree to invite the accession of the other Powers to the present Convention.

Accession of other Powers.

[Inclosure 3 in No. 326.]

Extract from a Pamphlet entitled "Fur-seal Fisheries of the Pacific Coast and Alaska." Published by C. D. Ladd.

It is claimed that many seals are shot that sink and are lost. Undoubtedly there are some lost in this way, but the percentage is light, probably one in thirty or forty, not more than this. It is also claimed that ten are shot and wounded that die to one that is secured. This is also an error. Many seals are shot at that are not hit at all, but when a seal is wounded, so that in the end it will die, it is most always secured by the hunter, who may have to shoot at it several times in order to get it, as the seal in the water exposes only its head, and when frightened exposes only a small portion of that, so that, together with the constant diving of the seal, the motion of the boat, &c., makes it very hard to hit. This is where it is claimed that ten are shot and wounded to one that is secured, but it is nearer the truth that one is lost to ten that are secured, for the reason that when a seal is wounded it cannot remain under water any length of time, and therefore the hunter can easily follow it up and secure it.

No. 327.

Colonial Office to Foreign Office.—(Received May 8.)

DOWNING STREET, *May 8, 1890.*

SIR: In reply to your letter of the 5th instant, I am directed by Lord Knutsford to acquaint you, for the information of the Marquis of Salisbury, that he does not see any reason for taking exception to the proposal of the Dominion Government that the question of the liability of the United States Government to pay compensation in respect of the seizures in Behring's Sea should be submitted to two eminent Judges instead of the single jurisconsult proposed by Mr. Blaine, if provision is made for securing a final decision in the event of a difference of opinion between the Judges chosen, by a reference to an umpire to be selected by the two Judges before the arbitration is commenced.

With regard to the question to be submitted to the arbitrators, Lor Knutsford would suggest that Her Majesty's Government should depr cate the employment of so vague and elastic a term as "natural law. I am to point out, also, that Mr. Blaine, in the conversation with Si J. Pauncefote reported in the latter's despatch of the 7th February las stated that no established principles of international law would be i dispute, and he would probably object, therefore, to a specific referenc to international law.

It appears to Lord Knutsford also to deserve consideration whethe Mr. Tupper's proposed form of question does not narrow rather tha extend the range of acts for which the United States should be hel responsible, as it is not impossible that, by ingenious argument, th arbitrators might be persuaded that proceedings otherwise not justifi able were excusable under some alleged doctrine of international law

Lord Knutsford is disposed, therefore, to prefer the broader term of reference suggested by Mr. Blaine in the Memorandum which h communicated to Sir J. Pauncefote on the 11th February last, namely whether, under the circumstances existing at the time, the Unitec States Government was justified in arresting and detaining the vessel that entered the Behring's Sea for the purpose of killing fur-seals i the open sea. This would not prevent Her Majesty's Government from
invoking the principles of international law against the United
460 States action, as indeed it is proposed to do in the reply to be
given to Mr. Blaine's note of the 22nd January, setting forth the grounds upon which he rests the justification of the seizures.

I am to observe, further, that Mr. Tupper does not say in his letter whether the Dominion Government are willing that the question of the amount of the damages, in the event of Mr. Blaine and Sir J. Pauncefote failing to agree, should be referred to the arbitrators to be selected to determine the question of the liability of the United States.

Lord Knutsford would suggest, for Lord Salisbury's consideration, that Sir J. Pauncefote should be desired to communicate with Mr. Tupper as to the points raised in this letter before submitting the matter to the United States Government.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 328.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *May 8, 1890.*

What reception has Mr. Blaine given to the proposals embodied in the draft Convention for regulating the Behring's Sea fur-seal fisheries which was sent home in your despatch of the 29th ultimo?

Her Majesty's Government would be glad to be kept informed by telegraph of any advance in the negotiations.

No. 329.

. Pauncefote to the Marquis of Salisbury.—(Received May 8.)

[Telegraphic.]

WASHINGTON, *May 8, 1890.*

Lordship's telegram of to-days' date received.
telegraph without fail as soon as I receive any communication
Blaine as to his views on the draft Convention.
igh as friendly as ever in manner, he has hitherto maintained
silence on the subject.
your Lordship authorize me to inform him that you approve
, and hope that it will be accepted by the United States Gov-
sired information may thus be elicited.

No. 330.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *May 9, 1890.*

e received your telegram of to-day, and, in reply, I have to
ou that you are authorized, if you think it advisable, to inform
ne that Her Majesty's Government approve the terms of the
nvention submitted to him by you for the regulation of the
s Sea fur-seal fisheries.

No. 331.

quis of Salisbury to Sir J. Pauncefote.—(Substance telegraphed.)

FOREIGN OFFICE, *May 9, 1890.*

I lost no time in communicating to the Secretary of State for
nies copies of your despatch of the 25th ultimo, and its inclo
lative to the assessment of compensation for the seizures by
States vessels of British sealers in Behring's Sea; and I now
t, for your information and guidance, a copy of a letter con-
ining Lord Knutsford's views on the matter.*
As it is very desirable that the negotiations now pending
hould be brought to as early a conclusion as possible, I tele-
l the substance of the Colonial Office letter to you this day,
; you to consult Mr. Tupper on its contents before approaching
ted St[illegible]s Government in regard to them.
am, &c.

(Signed) SALISBURY.

*No. 327.

No. 332.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *May 10, 1890.*

SIR: I have received your despatch of the 29th ultimo, covering copy of a note in which you submitted to Mr. Blaine the draft Convention, which has been approved by the Government of Canada, for the settlement of the Behring's Sea Fisheries question, as well as a copy of the draft Convention itself.

The terms of your note are approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 333.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 11.)

[Telegraphic.]

WASHINGTON, *May 11, 1890.*

With reference to my telegram of the 8th instant, Mr. Blaine has informed me that he will send me a communication before the end of the week, in which he will explain why the United States Government are unable to accept my draft Convention in its present shape. He told me, however, at the same time, that he thought a basis of arrangement was offered by my proposal which he was in hopes would lead to a settlement of the question.

No. 334.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 11.)

[Telegraphic.]

WASHINGTON, *May 11, 1890.*

As to compensation for damages referred to in your Lordship's telegram of the 9th instant, I have prepared, after discussion with Mr. Tupper, a draft Arbitration Agreement on the basis of your Lordship's instructions.

Mr. Tupper will to-morrow take a copy of it to Ottawa for the approval of the Canadian Government, and should his further services be required here, will return immediately.

As soon as I receive the reply of the Canadian Government, I will forward copy to your Lordship.

Proposal for arbitrators and umpire will be agreed to by Mr. Blaine.

No. 335.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 14.)

[Telegraphic.]

WASHINGTON, *May 14, 1890.*

Mr. Tupper did not leave for Ottawa as stated in my telegram of the 11th instant. Draft Agreement was sent there by post instead of being taken by him.

462 No. 336.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *May 22, 1890.*

SIR: I received in due course your despatch of the 23rd January,* inclosing copy of Mr. Blaine's note of the 22nd of that month, in answer to the protest made on behalf of Her Majesty's Government on the 12th October last against the seizure of Canadian vessels by the United States Revenue cutter "Rush" in Behring's Sea.

The importance of the subject necessitated a reference to the Government of Canada, and some time elapsed before their reply reached Her Majesty's Government. The negotiations which have taken place between Mr. Blaine and yourself afford strong reason to hope that the difficulties attending this question are in a fair way towards an adjustment which will be satisfactory to both Governments. I think it right, however, to place on record, as briefly as possible, the views of Her Majesty's Government on the principal arguments brought forward on behalf of the United States.

Mr. Blaine's note defends the acts complained of by Her Majesty's Government on the following grounds:

1. That "the Canadian vessels arrested and detained in the Behring's Sea were engaged in a pursuit that is in itself *contra bonos mores*—a pursuit which of necessity involves a serious and permanent injury to the rights of the Government and people of the United States."

2. That the fisheries had been in the undisturbed possession, and under the exclusive control, of Russia from their discovery until the cession of Alaska to the United States in 1867, and that from this date onwards until 1886 they had also remained in the undisturbed possession of the United States Government.

3. That it is a fact now held beyond denial or doubt that the taking of seals in the open sea rapidly leads to the extinction of the species, and that therefore nations not possessing the territory upon which seals can increase their numbers by natural growth should refrain from the slaughter of them in the open sea.

Mr. Blaine further argues that the law of the sea and the liberty which it confers do not justify acts which are immoral in themselves, and which inevitably tend to results against the interests and against the welfare of mankind; and he proceeds to justify the forcible resistance of the United States Government by the necessity of defending not only their own traditional and long-established rights, but also the rights of good morals and of good government the world over.

He declares that while the United States will not withhold from any nation the privileges which they demanded for themselves when Alaska was part of the Russian Empire, they are not disposed to exercise in the possessions acquired from Russia any less power or authority than they were willing to concede to the Imperial Government of Russia when its sovereignty extended over them. He claims from friendly nations a recognition of the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia.

With regard to the first of these arguments, namely, that the seizure of the Canadian vessels in the Behring's Sea was justified by the fact that they were "engaged in a pursuit that is in itself *contra bonos*

* No. 272.

mores—a pursuit which of necessity involves a serious and perm injury to the rights of the Government and people of the United St it is obvious that two questions are involved: first, whether the p and killing of fur-seals in certain parts of the open sea is, from the of view of international morality, an offence *contra bonos mores* secondly, whether, if such be the case, this fact justifies the seiz the high seas and subsequent confiscation in time of peace of the p vessels of a friendly nation.

It is an axiom of international maritime law that such action i admissible in the case of piracy or in pursuance of special interna agreement. This principle has been universally admitted by ju and was very distinctly laid down by President Tyler in his S Message to Congress, dated the 27th February, 1843, when, acknowledging the right to detain and search a vessel on suspic piracy, he goes on to say: "With this single exception, no natio in time of peace, any authority to detain the ships of another up high seas, on any pretext whatever, outside the territorial jurisdic

Now, the pursuit of seals in the open sea, under whatever ci stances, has never hitherto been considered as piracy by any civ

State. Nor, even if the United States had gone so far as to
463 the killing of fur-seals piracy by their Municipal Law, woul have justified them in punishing offences against such Law mitted by any persons other than their own citizens outside the torial jurisdiction of the United States.

In the case of the Slave Trade, a practice which the civilized has agreed to look upon with abhorrence, the right of arrestin vessels of another country is exercised only by special interna agreement, and no one Government has been allowed that gener trol of morals in this respect which Mr. Blaine claims on behalf United States in regard of seal-hunting.

But Her Majesty's Government must question whether this p can of itself be regarded as *contra bonos mores*, unless and un special reasons, it has been agreed by international arrangement bid it. Fur-seals are indisputably animals *ferœ naturæ*, and thes universally been regarded by jurists as *res nullius* until they are ca no person, therefore, can have property in them until he has ac reduced them into possession by capture.

It requires something more than a mere declaration that the G ment or citizens of the United States, or even other countries inte in the seal trade, are losers by a certain course of proceeding, t der that course an immoral one.

Her Majesty's Government would deeply regret that the pur fur-seals on the high seas by British vessels should involve ev slightest injury to the people of the United States. If the ca proved, they will be ready to consider what measures can be pr taken for the remedy of such injury, but they would be unable o ground to depart from a principle on which free commerce on th seas depends.

The second argument advanced by Mr. Blaine is that the "fu fisheries of Behring's Sea had been exclusively controlled by the ernment of Russia, without interference and without question, their original discovery until the cession of Alaska to the United S in 1867," and that "from 1867 to 1886 the possession, in which R had been undisturbed, was enjoyed by the United States Gover also without interruption or intrusion from any source."

I will deal with these two periods separately.

First, as to the alleged exclusive monopoly of Russia. After Russia, at the instance of the Russian American Fur Company, claimed in 1821 the pursuits of commerce, whaling, and fishing from Behring's Straits to the 51st degree of north latitude, and not only prohibited all foreign vessels from landing on the coasts and islands of the above waters, but also prevented them from approaching within 100 miles thereof, Mr. Quincy Adams wrote as follows to the United States Minister in Russia:

> The United States can admit no part of these claims; their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions.

That the right of fishing thus asserted included the right of killing fur-bearing animals is shown by the case of the United States brig "Loriot." That vessel proceeded to the waters over which Russia claimed exclusive jurisdiction for the purpose of hunting the sea-otter, the killing of which is now prohibited by the United States Statutes applicable to the fur-seal, and was forced to abandon her voyage and leave the waters in question by an armed vessel of the Russian navy. Mr. Forsyth, writing on the case to the American Minister at St. Petersburgh on the 4th May, 1837, said:

> It is a violation of the rights of the citizens of the United States, immemorially exercised and secured to them as well by the law of nations as by the stipulations of the 1st Article of the Convention of 1824, to fish in those seas, and to resort to the coast for the prosecution of their lawful commerce upon points not already occupied.

From the speech of Mr. Sumner when introducing the question of the purchase of Alaska to Congress, it is equally clear that the United States Government did not regard themselves as purchasing a monopoly. Having dealt with fur-bearing animals, he went on to treat of fisheries, and, after alluding to the presence of different species of whales in the vicinity of the Aleutians, said: "No sea is now *mare clausum;* all of these may be pursued by a ship under any flag, except directly on the coast or within its territorial limit."

I now come to the statement that from 1867 to 1886 the possession was enjoyed by the United States with no interruption and no intrusion from any source. Her Majesty's Government cannot but think that Mr. Blaine has been misinformed as to the history of the operations in Behring's Sea during that period.

The instances recorded in Inclosure 1 in this despatch are
464 sufficient to prove, from official United States sources, that from 1867 to 1886 British vessels were engaged at intervals in the fur-seal fisheries, with the cognizance of the United States Government. I will here, by way of example, quote but one.

In 1872 Collector Phelps reported the fitting-out of expeditions in Australia and Victoria for the purpose of taking seals in Behring's Sea, while passing to and from their rookeries on St. Paul and St. George Islands, and recommended that a steam-cutter should be sent to the region of Ounimak Pass and the Islands of St. Paul and St. George.

Mr. Secretary Boutwell informed him, in reply, that he did not consider it expedient to send a cutter to interfere with the operations of foreigners, and stated, "In addition, I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempt within a marine league of the shore."

Before leaving this part of Mr. Blaine's argument, I would allude to his remark, that "vessels from other nations passing from time to time through Behring's Sea to the Arctic Ocean in pursuit of whales have always abstained from taking part in the capture of seals," which he holds to be proof of the recognition of rights held and exercised first by Russia and then by the United States.

Even if the facts are as stated, it is not remarkable that vessels pushing on for the short season in which whales can be captured in the Arctic Ocean, and being fitted specially for the whale fisheries, neglected to carry boats and hunters for fur-seals, or to engage in an entirely different pursuit.

The whalers, moreover, pass through Behring's Sea to the fishing-grounds in the Arctic Ocean in April and May as soon as the ice breaks up, while the great bulk of the seals do not reach the Pribyloff Islands till June, leaving again by the time the closing-up of the ice compels the whalers to return.

The statement that it is "a fact now held beyond denial or doubt that the taking of seals in the open sea rapidly leads to their extinction" would admit of reply, and abundant evidence could be adduced on the other side. But as it is proposed that this part of the question should be examined by a Committee to be appointed by the two Governments, it is not necessary that I should deal with it here.

Her Majesty's Government do not deny that if all sealing were stopped in Behring's Sea except on the islands in possession of the lessees of the United States, the seal may increase and multiply at an even more extraordinary rate than at present, and the seal fishery on the islands may become a monopoly of increasing value; but they cannot admit that this is a sufficient ground to justify the United States in forcibly depriving other nations of any share in this industry in waters which, by the recognized law of nations, are now free to all the world.

It is from no disrespect that I refrain from replying specifically to the subsidiary questions and arguments put forward by Mr. Blaine. Till the views of the two Governments as to the obligations attaching, on grounds either of morality or necessity, to the United States Government in this matter, have been brought into closer harmony, such a course would appear needlessly to extend a controversy which Her Majesty's Government are anxious to keep within reasonable limits.

The negotiations now being carried on at Washington prove the readiness of Her Majesty's Government to consider whether any special international agreement is necessary for the protection of the fur-sealing industry. In its absence they are unable to admit that the case put forward on behalf of the United States affords any sufficient justification for the forcible action already taken by them against peaceable subjects of Her Majesty engaged in lawful operations on the high seas.

"The President," says Mr. Blaine, "is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia."

Her Majesty's Government have no difficulty in making such a concession. In strict accord with the views which, previous to the present controversy, were consistently and successfully maintained by the United States, they have, whenever occasion arose, opposed all claims to exclusive privileges in the non-territorial waters of Behring's Sea. The rights they have demanded have been those of free navigation

and fishing in waters which, previous to their own acquisition of Alaska, the United States declared to be free and open to all foreign vessels.

That is the extent of their present contention, and they trust that, on consideration of the arguments now presented to them, the United States will recognize its justice and moderation.

465 I have to request that you will read this despatch to Mr. Blaine, and leave a copy of it with him should he desire it.

I am, &c.

(Signed) SALISBURY.

[Inclosure in No. 336.]

Memorandum.

In 1870, Collector Phelps reported, "The barque 'Cyane' has arrived at this port (San Francisco) from Alaska, having on board forty-seven seal-skins." (See Ex. Doc. No. 83. 44th Congress, 1st Session.)

In 1872, he reported expeditions fitting out in Australia and Victoria for the purpose of taking seals in Behring's Sea, and was informed that it was not expedient to interfere with them.

In 1874, Acting Secretary Sawyer, writing to Mr. Elliott, Special Agent, said:

"It having been officially reported to this Department by the Collector of Customs at Port Townsend, from Neea-ah Bay, that British vessels from Victoria cross over into American waters and engage in taking fur-seals (which, he represents, are annually becoming more numerous on our immediate coast) to the great injury of our sealers, both white and Indian, you will give such proper attention to the examination of the subject as its importance may seem to you, after careful inquiry, to demand, and with a view to a Report to the Department of all facts ascertained." (Ditto, May 4th, No. 117, p. 114.)

In 1875, Mr. McIntyre, Treasury Agent, described how "before proceeding to harsh measures" he had warned the Captain of the "Cygnet," who was shooting seals in Zapadnee Bay, and stated that the Captain appeared astonished that he was breaking the law. (Ditto, March 15th, 1875, No. 130, p. 124.)

In 1880, the fur-seal trade of the British Columbia coast was of great importance. Seven vessels were then engaged in the fishery, of which the greater number were, in 1886 and 1887, seized by the United States Government in Behring's Sea.

In 1884, Daniel and Alexander McLean, both British subjects, took the American schooner "San Diego" to Behring's Sea, and were so successful that they returned there in 1885, from Victoria, with the "Mary Ellen" and the "Favourite."

No. 337.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 23.)

[Telegraphic.]

WASHINGTON, *May 22, 1890.*

A statement appears in the newspapers to-day that after a Cabinet Council, held on Tuesday, it has been decided to reject the British counter-proposal, and instructions have been issued to the officer commanding the United States Revenue cruizer "Bear," now lying at Seattle, similar to those of last year, with one exception, viz., that, instead of capturing, she is to dismantle all vessels found sealing in Behring's Sea, and to seize their log-books and skins as evidence in case of judicial proceedings being taken.

I went at once to Mr. Blaine, who did not deny these statements.

I remonstrated against the publication of such news before he had returned any reply to the proposals of Her Majesty's Government, and against the issue of such instructions while negotiations are pending.

In reply, he said that the press could not be controlled; that his answer was delayed in order to return a joint reply with Russia; that our draft Convention was quite inadequate to the necessities of the case. He inveighed against the words of Article VI, which purports to prescribe regulations on land, and urged that, as there would be no seals without the seal islands, the possession of those islands gave the United States special rights on the open sea, in order to enable them to protect the species. The United States Government would never admit that, as regards the seal fishery, the rights of Great Britain in Behring's Sea were equal to their own. Nothing short of the total exclusion of sealing-vessels during the summer months, in which we proposed to leave the fisheries open, would satisfy them.

I strongly insisted that the sole ground of discussion was the
466 preservation of the seals, reminding him of his assurance at our last interview that the draft offered a basis of negotiation.

He replied that on that occasion he had in his mind the question of arbitration, but he did not think we would ever agree as to the form of questions to be submitted to arbitration.

I will not cease to press Mr. Blaine that our proposals may receive a formal reply.

No. 338.

[Extract from the "Morning Post" of May 23, 1890.]

The Behring's Sea Fisheries.

[Reuter's Telegram.]

NEW YORK, *May 21.*

The United States Revenue cutter "Bear" has been ordered to cruize in the Behring's Sea for the protection of the seal fisheries, with instructions to seize and dismantle all vessels found violating the Statute, in order to deprive them of the means of its further violation. The vessel is also ordered to seize the logs and skins on board vessels found illegally fishing, and to preserve them as evidence against the offending persons.

No. 339.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *May 23, 1890.*

This morning's newspapers contain a paragraph which states, in substance, that the United States Government have instructed some of their ships of war to proceed to Behring's Sea, with orders to take such steps as may be necessary to prevent the merchant-vessels of other nations from pursuing their calling as fur-sealers in non-territorial waters.

The communications made to you by Mr. Secretary Blaine, as recorded in your telegram of the 22nd instant, give a general confirmation of the statements of the press.

I have to instruct you to inform the Secretary of State that a formal protest against any such interference with British vessels is now being prepared, and that no time will be lost in forwarding it to him.

No. 340.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 23.)

[Telegraphic.]

WASHINGTON, *May 23, 1890.*

With reference to your Lordship's telegram of to-day's date, I have addressed a note to Mr. Blaine, as instructed by your Lordship.

No. 341.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *May 24, 1890.*

SIR: You will receive by this mail my despatch of the 22nd instant, replying to the arguments urged by Mr. Blaine in his note of the 22nd January last in defence of the seizure of Canadian vessels by United States Revenue cruizers in Behring's Sea.

Those arguments were not such as Her Majesty's Government could admit to be valid according to the established principles of international law, or sufficient to justify the acts complained of. The reply has been for some time in draft; but Her Majesty's Government were unwilling to introduce any unnecessary element of controversy into the negotiations in which you are engaged for the friendly settlement of the
467 whole question. I had, therefore, thought that a certain delay in the presentation of the despatch would not be disadvantageous.

The intelligence contained in your telegrams of the 22nd instant as to the dispatch of United States cruizers to Behring's Sea, and the instructions with which they are provided, render it necessary that the communication should no longer be delayed. I have accordingly to request that you will at once place a copy of it in Mr. Blaine's hands.

I shall forward to you, as soon as its terms have been approved by the Queen and the Cabinet, a formal Protest, to be delivered to Mr. Blaine, against any such interference with British vessels outside the territorial waters of the United States, as appears to be contemplated in the instructions just issued. I need not say that it would be a cause of sincere satisfaction to Her Majesty's Government if a consideration of the arguments advanced in my despatch, and of those with which you will be able to supplement them, should induce the Government of the United States so to limit the action of their cruizers as to remove the occasion for such a Protest.

I am, &c. (Signed) SALISBURY.

No. 342.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *May 29, 1890.*

SIR: I received on the 23rd instant, and at once submitted to the Queen and the Cabinet, your telegrams of the previous day, reporting the instructions issued to the United States Revenue cruizers in Behring's Sea for the approaching fishery season.

According to accounts given in the press, the accuracy of which is not denied by Mr. Blaine, these instructions are similar to those under which Canadian vessels were seized last summer outside the territorial waters of the United States, with this exception, that, instead of capturing vessels found sealing in Behring's Sea, the cruizers are to dismantle such vessels, and to seize their log-books and skins as evidence in case of judicial proceedings.

This modification, it is unnecessary to say, in no way removes the objections of Her Majesty's Government to such interference with British vessels on the high seas as contrary to international law and the practice of civilized nations.

They deeply regret this decision of the United States Government, as likely, if persisted in, to produce the most serious complications, and to frustrate the efforts now being made to arrive at an agreement for the proper protection of the seal fisheries, and the settlement of the questions connected therewith.

Her Majesty's Government have no alternative, under the circumstances, but to protest formally and solemnly against any interference on the part of United States cruizers with British vessels navigating outside the territorial jurisdiction of the United States, and to leave to the United States Government the responsibility of the consequences if that protest is disregarded.

I accordingly inclose herewith the draft of a note which you will address to Mr. Blaine if you should unfortunately find that there is no intention of so modifying or restricting the action of the United States cruizers as to render this step unnecessary.

I am, &c. (Signed) SALISBURY.

[Inclosure in No. 342.]

Draft of Note to be addressed to Mr. Blaine.

The Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, &c., has the honour, by instructions of his Government, to make to Mr. Blaine, Secretary of State, &c., the following communication:

Her Britannic Majesty's Government have learned with great concern, from notices which have appeared in the press, and the general accuracy of which has been confirmed by Mr. Blaine's statements to the Undersigned, that the Government of
468 the United States have issued instructions to their Revenue cruizers about to be dispatched to Behring's Sea, under which the vessels of British subjects will again be exposed, in the prosecution of their legitimate industry on the high seas, to unlawful interference at the hands of American officers.

Her Britannic Majesty's Government are anxious to co operate to the fullest extent of their power with the Government of the United States in such measures as may be found to be expedient for the protection of the seal fisheries. They are at the present moment engaged in examining, in concert with the Government of the United States, the best method of arriving at an agreement upon this point. But they cannot admit the right of the United States of their own sole motion to restrict for this purpose the freedom of navigation of Behring's Sea, which the United States have themselves in former years convincingly and successfully vindicated, nor to enforce their municipal legislation against British vessels on the high seas beyond the limits of their territorial jurisdiction.

Her Britannic Majesty's Government are therefore unable to pass over without notice the public announcement of an intention on the part of the Government of the United States to renew the acts of interference with British vessels navigating outside the territorial waters of the United States, of which they have previously had to complain.

The Undersigned is in consequence instructed formally to protest against such interference, and to declare that Her Britannic Majesty's Government must hold the Government of the United States responsible for the consequences that may ensue from acts which are contrary to the established principles of international law.

The Undersigned has the honour to renew to Mr. Blaine the assurances of his highest consideration.

No. 343.

auncefote to the Marquis of Salisbury.—(Received May 31.)

[Telegraphic.]

WASHINGTON, *May 30, 1890.*

l last night from the Secretary of State a long note, copy of ve sent by bag to-day, on the question of the negotiations season in the Behring's Sea.

commences by a protest against the course alleged to be Her Majesty's Government in "authorizing, encouraging, ing" British vessels, who, it maintains, are interfering with of the United States and those of the whole civilized world eals in that sea.

ry of the negotiations for a close season from their commence- viewed in the note, which then goes on to inveigh strongly change of position taken by Her Majesty's Government in tions, which change, the Secretary of State maintains, has ht about by the "interposition of Canada." Mr. Blaine then that the arrangements which were proposed in 1888 relative eason, and those which were proposed in the draft Conven- be considered to be "in significant contrast." Moreover, the in the opinion of the United States Government, quite inad- rotect the rights of the United States in the Behring's Sea. qually insufficient for the preservation of seal life.

ed States and Russia have consequently no other course but ir proposals. The negotiations will, however, be continued ed States Government in the hope that a satisfactory agree- be arrived at, although it is too late, the note says, for the of any result, which may be reached, to this season. Mr. intains that the responsibility of the delays which have nnot be laid to the charge of his Government.

contains at the conclusion a proposal on the part of the ites Government that with the view of avoiding any inter- the negotiations by any "untoward events," all British ves- e prevented by Her Majesty's Government from entering g's Sea.

No. 344.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *May 31, 1890.*

to your telegram of the 30th instant, I have to state that it le, on grounds both of law and of policy, for Her Majesty's nt to accept Mr. Blaine's suggestion that British sealing- ld be forbidden to enter the Behring's Sea.

No. 345.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 3.)

WASHINGTON, *May 23, 1890.*

MY LORD: With reference to my telegram of yesterday's date, I have the honour to inclose herewith extracts from the "New York Herald" and the "New York Evening Post" relative to the instructions given to the Revenue cutter "Bear," and to the report that the Cabinet had decided to reject the Behring's Sea proposal.

Your Lordship will observe that in the account of the alleged interview with the correspondent of the "Evening Post," the Secretary of the Treasury is reported to have denied ever having seen the British proposal, which throws some doubt upon the statement in the "Herald," that the Cabinet had refused to accept the proposal.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 345.—Extract from the "New York Evening Post" of May 22, 1890.]

THE BEHRING'S SEA QUESTION.

What Secretary Windom says of a Current Report.

[Special Despatch to the "Evening Post."]

WASHINGTON, *May 22, 1890.*

Secretary Windom was asked this morning what truth there was in the report telegraphed from here last night, that he had taken a decisive stand in the Cabinet meeting yesterday against the acceptance of the British Behring's Sea proposal.

"I have not read the despatch," he answered. "I consequently cannot plead to the indictment."

"Did you authorize the statement, then, that you did not oppose the acceptance of the proposal?"

"What is the nature of the proposal said to be?" he asked, in reply.

"That is not given."

"No British proposal," he then said, "has been submitted to me. I am here simply to enforce the law, and I am trying to do so. But, naturally, I do not care to discuss the matter till I have had a chance to see of what I am accused."

The instructions given to the Commander of the Revenue cutter "Bear" respecting the capture of sealing-vessels in Alaskan waters are identical with those of last year, except that captured vessels are to be dismantled, so as to prevent any repetition of the offence during the season. The Commander is to warn all persons against entering Behring's Sea for the purpose of violating the laws of the United States therein, and particularly the law which provides that no person shall kill any fur seal "within the limits of Alaska territory or the waters thereof." What those limits are has not been defined. The British Columbian sealers hold that they are the waters within 3 miles of any land of Alaska territory. Do we hold the con-
470 trary? Not so far as any authentic documentary evidence has been submitted. Not so far as either Congress or the President has declared. We have not gone to the length of laying down one rule for Behring's Sea and a different one for the Gulf of St. Lawrence. It would seem, therefore, that the Government has put into the discretion of the Commander of a Revenue cutter a question of extreme gravity which it has not ventured to decide for itself, and that upon his decision may rest issues of vast importance. Of course, no discussion of the Behring's Sea question of any value will be possible until the negotiations between Secretary Blaine and Sir Julian Pauncefote are made public.

[Inclosure 2 in No. 345.—Extract from the "New York Herald" of May 22, 1890.]

GREAT EXCITEMENT IN CANADA.

[From our Regular Correspondent.]

"HERALD" BUREAU, CORNER OF FIFTEENTH AND G STREETS, N.W.,
Washington, May 21, 1890.

I learn that at the Cabinet meeting yesterday it was decided to reject the British proposition submitted three weeks ago for a settlement of the Behring's Sea question.

Secretary Windom, as I am informed, was decidedly opposed to the acceptance of the proposal—first, because its provisions were deemed by him entirely inadequate to secure the professed object of preserving seal life in Behring's Sea, and, second, because it virtually ignored the established position of the United States in that sea arising out of its ownership of the partially surrounding shores and of a part of the islands within the sea; the possession of a universally recognized boundary-line which included in the cession to the United States the very part of the sea wherein alone this country has sought to exercise a territorial jurisdiction; the inheritance from Russia of a continuous claim of jurisdiction never directly questioned nor successfully assailed, and the undoubted right that the United States has to exercise a reasonable police jurisdiction to protect its own property and interests in Behring's Sea, and secure to itself the natural use and profit thereof.

Secretary Blaine did not advocate an acceptance of the proposal, and thought it probable that further negotiations would abate the Canadian contentions and improve the position of the United States. The British proposal, being without support from either of the two Departments immediately concerned with it, necessarily met with rejection, a like fate with that which overtook the preceding American proposal in the Council of the Governor-General of Canada.

I understand that in neither case was an acceptance of the proposal anticipated by the party submitting it, but that the only result expected from the exchange of proposals was the bringing of the parties a little nearer together by the elimination of some of the points of difference.

To some extent, according to my information, this expectation has been realized, so that the negotiations are really in a better state, notwithstanding the reflection of the counter-proposals than at the beginning.

The Next Step.

I am advised that the next step in the negotiations will be the discussion and settlement of the details connected with the creation of a Joint Commission of experts to prepare and submit to the two Governments a full and particular project as the basis of a Treaty by which the whole question can be permanently settled. It is possible that the Government of Russia may be directly represented in this Commission of experts, but that is a matter which has not yet received any consideration, and is altogether likely to be governed by the wishes of that Government at the proper time.

In any and all events, there is a confident expectation that a Treaty can be framed in time for submission to the Senate immediately upon the opening of the second Session of the present Congress.

471 *Enforcing a Closure.*

The more important question for the Cabinet yesterday was that of the *ad interim* policy to be pursued in Behring's Sea with immediate reference to the sealing season, which will be in full headway by the end of this month. The Treasury view was that, inasmuch as the British Government had admitted a close season to be necessary to the preservation of the seals and the just interest of the United States, and had offered as part of its proposal a radius around the seal islands to protect the female seals from attacks while obtaining food in the waters adjacent to the Rookery Islands, it would be admissible and proper to enforce by warning, and by restraint after warning had proved ineffectual in any case, such a closure during the present season, relying upon the good sense and disposition of the British Government to acquiesce in measures so entirely reasonable and merely provisional.

This view prevailed, it being a practical and substantial acceptance of the *modus vivendi* voluntarily tendered by the British Government in company with its rejected proposal. The Commanders of the cruizing vessels will be emphatically enjoined to refrain, so far as possible within the lines of their instructions, from any conduct toward the British sealers whom they meet with that can be made the occasion of just complaint or resentment.

These instructions will be communicated to the British Government in order that the Canadian authorities may take any action they may deem advisable toward the common end of maintaining peace and amity from now till the close of the season.

Orders to the "Bear" to proceed to Behring's Sea and seize all Vessels engaged in Unlawful Acts.

WASHINGTON, *May 21, 1890.*

Secretary Windom to-day signed the Sailing Orders of the Revenue-cutter "Bear," now at Seattle, Washington, directing that she sail immediately to Ounalaska and then to cruize diligently in Behring's Sea for the purpose of warning all persons against entering such waters for the purpose of violating section 1956 of the Revised Statutes, and arresting all persons and seizing all vessels found to be or to have been engaged in any violation of the laws of the United States therein.

Section 1956, Revised Statutes, referred to above, provides that "no person shall kill any otter, mink, marten, sable, or fur seal, or other fur-bearing animal within the limits of Alaska territory or in the waters thereof, and every person guilty thereof shall, for each offence, be fined not less than 200 dollars, nor more than 1,000 dollars, or imprisoned not more than six months, or both, and all vessels, their tackle, apparel, furniture, and cargo found engaged in violation of this section shall be forfeited, but the Secretary of the Treasury shall have power to authorize the killing of any such otter, mink, marten, sable, or other fur-bearing animal except fur seals, under such Regulations as he may prescribe, and it shall be the duty of the Secretary to prevent the killing of any fur seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law, nor shall he grant any special privileges under this section."

The Commander of the "Bear" is also furnished with copies of the President's last Proclamation on this subject and the Act of the 2nd March, 1889, regarding the seal and salmon fisheries of Alaska.

Dismantling the Law Breakers.

The instructions, while not differing materially from those of last year, are much more specific in character. Efforts will be made to avoid a repetition of last year's experience with foreign vessels seized for violations of law. In two or three cases the vessels were placed in charge of a prize crew consisting of one man, and, as a result, never reached the port where he was ordered to take them. While it will be equally impossible now to increase the size of the prize crews, an effort will be made to accomplish the same result in another way. According to the present instructions, it is understood that all vessels found violating the law will be dismantled and deprived of all means of further violations. Their logs and all skins are also to be seized and preserved as evidence against them. With the exception of certain details as to the enforcement of the law there is, however, no change in the general policy of the administration on this question.

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472 No. 346.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 3.)

WASHINGTON, *May 23, 1890.*

MY LORD: Immediately upon reading in the newspapers of yesterday the announcement (which I at once telegraphed to your Lordship) that the United States Cabinet had decided to reject the counter-proposal of Her Majesty's Government for the settlement of the Behring's Sea question, and that they had issued orders to their Revenue cruizers to prevent all vessels from engaging in the sealing-industry in those waters, I called on the Secretary of State and inquired whether the announcement was correct. Mr. Blaine did not deny its accuracy, and defended the action of the Treasury in regard to their instructions to the Revenue cruizers, which he said were issued pursuant to an Act of Congress.

I objected that no Act of Congress authorized interference with foreign vessels on the high seas. It was a misconstruction of the Act so to apply its provisions. I remonstrated against the publication in the press of the decision of his Government on the proposals of Her Majesty's Government before any reply had been returned to those proposals, and I complained of the issue of the orders reported to have been given to the Revenue cruizers while the negotiations were still pending,

contrary to the assurance given by him in his note to me of the 24th March last. Mr. Blaine replied to the effect that it was not possible to guard against the publication in the press of news of such public interest; that his answer to the British proposals, which he had promised to send to me last week, had been delayed, as he now proposed that it should be in the form of a joint reply from his Government and that of Russia; and that, as regards the orders to the Revenue cruizers, they were the natural consequence of the rejection of the proposals which I had submitted to the Conference. Those proposals he proceeded to criticize as totally inadequate to the necessities of the case, and he animadverted upon the words in Article VI of the draft Convention, which purport to prescribe Regulations on land.

I pointed out to him that the draft Convention afforded the most ample protection to seal life by prohibiting pelagic sealing during the periods of migration to and from the Rookeries, and by establishing a radius around the Seal Islands to prevent the surreptitious landing of marauders. Moreover, it supplied the most complete machinery for arriving at a final decision as to what regulations should be adopted for the preservation of the seal species.

Mr. Blaine then urged that the United States, by the possession of the Seal Islands, had acquired special rights in Behring's Sea as regards the seal fishery. He said that the United States Government could never admit that Great Britain had rights equal to their own in that sea, and that they would not be satisfied with anything less than the total exclusion of all sealing vessels from Behring's Sea during the summer months in which Her Majesty's Government proposed that the fishery should be open. I reminded Mr. Blaine that the sole question was the preservation of the seal species. I urged that the draft Convention made ample provision for that purpose. That as regarded the claim which he advocated on behalf of his Government to special rights beyond the territorial waters of Behring's Sea, it rested on novel doctrines entirely opposed to the law and practice of nations. I also reminded him that he had quite recently informed me that the draft Convention, though not acceptable to his Government in its present form, afforded a basis of settlement. Mr. Blaine replied that he had at that time in his mind the provision relating to arbitration; but he doubted whether the two Governments could ever come to terms as to the form of the questions to be submitted for decision.

My interview here came to an end, Mr. Blaine having an appointment with the President which compelled him to leave for the White House.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 347.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 3.)

WASHINGTON, *May 23, 1890.*

MY LORD: In compliance with the instructions contained in your Lordship's telegram of to-day, I have the honour to inclose copy
473 of a note which I have addressed to Mr. Blaine, in which I have informed him that a formal protest by Her Majesty's Government against any interference with British vessels in Behring's Sea will be forwarded to him without delay.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 347.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *May 23, 1890.*

SIR: I have the honour to inform you that a statement having appeared in the newspapers, to the effect that United States Revenue cruizers have received orders to proceed to Behring's Sea for the purpose of preventing the exercise of the seal-fishery by foreign vessels in non-territorial waters, and that statement having been confirmed yesterday by you, I am instructed by the Marquis of Salisbury to state to you that a formal protest, by Her Majesty's Government, against any such interference with British vessels, will be forwarded to you without delay.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 348.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 3, 1890.*

Information has reached Her Majesty's Government that about twenty-three British vessels have already cleared from ports in British North America for the seal fishing.

All question, therefore, of stopping them, even if Her Majesty's Government considered it expedient to do so, is at an end.

No. 349.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 7.)

[Telegraphic.]

WASHINGTON, *June 7, 1890.*

Mr. Blaine having inquired, on behalf of the President, whether with a view to a friendly settlement by arbitration Her Majesty's Government would consent to the total exclusion of British sealers for the present season from Behring's Sea, I replied at once that this proposal could not be entertained, as apart from other considerations which I explained there was no legal power to enforce such exclusion.

My answer has elicited a long note expressing the President's regret that his most friendly and considerate proposal for adjusting all troubles connected with the Behring's Sea question should be rejected so promptly.

With reference to a statement made by me to the effect that the further examination of the question had satisfied Her Majesty's Government that total exclusion went beyond the requirements of the case, the note states that until the receipt of my reply the United States Government had never been informed that any other objection to the proposal was entertained by your Lordship than that assigned by you when you abruptly closed the negotiations in London, viz., that Canada would not consent to it. It observes any privileges conferred on Canadian sealers must be extended at once to American vessels, and that our proposed radius of 10 miles would expose female seals to be slaughtered by hundreds of thousands.

"The President does not conceal his disappointment that even for the sake of securing arbitration, Her Majesty's Government refuses to suspend for a single season the practice which your Lordship described in 1888 as the wanton destruction of a valuable industry, and which the United States Government has uniformly regarded as an unprovoked invasion of its established rights."

I have declined in my acknowledgment of the note to continue the correspondence until I receive further instructions, especially as
474 the views of Her Majesty's Government are clearly explained in your Lordship's despatch of the 22nd ultimo, which I read to the Secretary of State only a few hours before his note reached me.

No. 350.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 7.)

[Telegraphic.]

WASHINGTON, *June 7, 1890.*

Mr. Blaine has postponed our interview arranged for this morning. I will endeavour to meet him in the course of to-morrow.

No. 351.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 7, 1890.*

I regret to learn from your telegram of the 7th instant that the President should think I am wanting in conciliation in the Behring's Sea negotiations. I think, however, that he misunderstands the conditions of our law.

There is no power whatever which would enable Her Majesty's Government to exclude British or Canadian vessels from any part of the high seas for however short a period of time without first obtaining, in the one case, an Act of the British Parliament, and in the other one, of the Canadian Parliament.

We have always been willing, without pledging ourselves to details as to area and date, to negotiate with the hope of coming to an arrangement for the establishment of a close season so far as necessary to preserve the fur-seal species, but its provisions would require the sanction of the respective Legislatures.

I do not recognize the expressions which are apparently attributed to me in Mr. Blaine's note.

I do not think I used them, not at all events in the context stated in the note.

No. 352.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 9.)

WASHINGTON, *May 29, 1890.*

MY LORD: With reference to my despatch of the 23rd instant, I have the honour to inclose copy of a note which I have received from Mr. Blaine in reply to my communication of the 23rd instant, in which

I informed him that a formal protest by Her Majesty's Government against any interference with British vessels in Behring's Sea would be forwarded to him without delay.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 352.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *May 26, 1890.*

SIR: I have the honour to acknowledge the receipt of your note of the 23rd instant, in which you inform me that Her Britannic Majesty's Government will formally protest against certain action recently taken by this Government for the protection of the Alaska seal fisheries.

I have, &c.

(Signed) J. G. BLAINE.

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475 No. 353.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 9.)

WASHINGTON, *May 30, 1890.*

MY LORD: With reference to my telegram of to-day's date, I have the honour to inclose copy of the note which I have received from Mr. Blaine, informing me of the rejection of the draft Convention by his Government and that of Russia, and stating the grounds for that decision.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 353.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *May 29, 1890.*

SIR: Your note of the 23rd instant, already acknowledged, informs this Government that you "have been instructed by the Marquis of Salisbury to state that Her Majesty's Government would forward, without delay, a protest" against the course which this Government has found it necessary, under the laws of Congress, to pursue in the waters of the Behring's Sea.

In turn, I am instructed by the President to protest against the course of the British Government in authorizing, encouraging, and protecting vessels which are not only interfering with American rights in the Behring's Sea, but which are doing violence as well to the rights of the civilized world. They are engaged in a warfare against seal life, disregarding all the Regulations which lead to its protection, and committing acts which lead ultimately to its destruction, as has been the case in every part of the world where the abuses which are now claimed as British rights have been practised.

The President is surprised that such protest should be authorized by Lord Salisbury, especially because the previous declarations of his Lordship would seem to render it impossible. On the 11th November, 1887, Lord Salisbury, in an official interview with the Minister from the United States (Mr. Phelps), cordially agreed that "a Code of Regulations should be adopted for the preservation of the seals in Behring's Sea from destruction at improper times, by improper means, by the citizens of either country." And Lord Salisbury suggested that Mr. Phelps "should obtain from his Government, and submit to him (Lord Salisbury), a sketch of a system of

Regulations which would be adequate for the purpose." Further interviews were held during the following month of February (1888) between Lord Salisbury and the American Minister, and between Lord Salisbury and the American Minister, accompanied by the Russian Ambassador. In answer to Lord Salisbury's request, Mr. Phelps submitted the "Regulations" which the Government of the United States desired; and in a despatch of the 25th February Mr. Phelps communicated the following to Mr. Bayard, Secretary of State:

"Lord Salisbury assents to your proposition to establish, by mutual arrangement between the Governments interested, a close time for fur-seals, between the 15th April and the 1st November and between 160° of longitude west and 170° of longitude east, in the Behring's Sea. And he will cause an Act to be introduced into Parliament to give effect to this arrangement so soon as it can be prepared. In his opinion, there is no doubt that the Act will be passed.

"He will also join the United States Government in any preventive measures it may be thought best to adopt, by orders issued to the naval vessels of the respective Governments in that region."

Early in April (1888) the Russian Ambassador in London, M. de Staal, advised the American Chargé "that the Russian Government would like to have the Regulations which might be agreed upon for the Behring's Sea extended to that portion of the latter in which the Commander Islands are situated, and also to the Sea of Okhotsk, in which Robben Island is situated." On the 16th April, at Lord Salisbury's invitation, the Russian Ambassador and Mr. White (the American Chargé), Mr. Phelps being absent from London, met at the Foreign Office "for the purpose of discussing with Lord Salisbury the details of the proposed Conventional arrangement for the protection of seals in Behring's Sea."

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476 "With a view to meeting the Russian Government's wishes respecting the waters surrounding Robben Island, his Lordship suggested that beside the whole of Behring's Sea, those portions of the Sea of Okhotsk and of the Pacific Ocean north of north latitude 47° should be included in the proposed arrangement. His Lordship intimated, furthermore, that the period proposed by the United States for a closed time, from the 15th April to the 1st November, might interfere with the trade longer than absolutely necessary for the protection of seals, and he suggested the 1st October, instead of a month later, as the termination of the period of seal protection." Furthermore, Lord Salisbury "promised to have a draft Convention prepared for submission to the Russian Ambassador and American Minister."

On the 23rd April, the American Chargé was informed by Lord Salisbury that "it is now proposed to give effect to a Seal Convention by Order in Council, not by Act of Parliament." It was understood that this course was proposed by Lord Salisbury in order that the "Regulations" needed in Behring's Sea might be promptly applied.

You will observe, then, that from the 11th November, 1887, to the 23rd April, 1888, Lord Salisbury had in every form of speech assented to the necessity of a close season for the protection of the seals.

The shortest period which he named was from the 15th April to the 1st October—five and a-half months. In addition, his Lordship suggested that the closed sea for the period named should include the whole of the Behring's Sea, and should also include such portion of the Sea of Okhotsk as would be necessary to protect the Russian seal fishery on Robben Island; that the closed season be extended as far south as 47° north latitude, 120 miles south of the northern boundary of the United States on the Pacific Ocean. He promised, further, to draft a Convention upon the subject between England, Russia, and the United States.

These assurances were given to the American Minister, to the American Chargé to the Russian Ambassador, and on more than one occasion to two of them together. The United States had no reason, therefore, to doubt that the whole dispute touching the seal fisheries was practically settled. Indeed, to have distrusted it would have been to question the good faith of Lord Salisbury. In diplomatic intercourse between Great Britain and the United States, be it said to the honour of both Governments, a verbal assurance from a Minister has always been equal to his written pledge. Speaking the same language, there has been no room for misunderstanding between the Representatives of the two Governments, as may easily happen between those of different tongues. For a period of six months, therefore, without retraction or qualification, without the suggestion of a doubt or the dropping of a hint, the understanding between the two Governments, on the assurance of Lord Salisbury, was as complete as language could make it.

On the 28th April, five days after Lord Salisbury's last pointed assurance, five days after he had proposed to perfect the scheme, not by the delay of Parliament, but by the promptness of an Order in Council, the American Chargé was informed that the Act of Parliament would be necessary in addition to the Order in Council, and that neither Act nor Order could be drafted "until Canada is heard from."

For several weeks following the 28th April, there were many calls by the American Chargé at the Foreign Office to learn whether "Canada had been heard from." He called alone, and called in company with the Russian Ambassador. Finally, on the 20th June, Lord Salisbury told him that an urgent telegram had been "sent to Canada a week ago with respect to the delay in its expedition," and that a reply had been "received by the Secretary of State for the Colonies, saying that the matter will be taken up immediately." Mr. White, relying entirely upon these assurances, ventured to "hope that shortly after Mr. Phelps' return the British Government will be in a condition to agree upon the terms of the proposed Convention."

Mr. Phelps returned to London on the 22nd June, two days after Mr. White's interview with Lord Salisbury, and immediately after the urgent telegram had been sent to Canada.

On the 28th July, Mr. Phelps had received no assurances from Lord Salisbury, and telegraphed the Department of State his "fear that owing to Canadian opposition we shall get no Convention." In a despatch to his Government of the 12th September he related having had interviews with Lord Salisbury respecting the Convention, which he says had been "virtually agreed upon except in its details." Mr. Phelps goes on to say: "The consideration of it has been suspended for communication by the British Government with the Canadian Government, for which purpose an interval of several months had been allowed to elapse. During this long
477 interval the attention of Lord Salisbury had been repeatedly called to the subject by the American Legation, and on those occasions the answer received from him was that no reply from the Canadian authorities had arrived!"

Mr. Phelps proceeds in the despatch of the 12th September to say: "I again pressed Lord Salisbury for the completion of the Convention, as the extermination of seals by Canadian vessels was understood to be rapidly proceeding. His Lordship, in reply, did not question the propriety or the importance of taking measures to prevent the wanton destruction of so valuable an industry, in which, as he remarked, England had a large interest of its own, but his Lordship stated that the Canadian Government objected to any such restrictions, and that until its consent could be obtained Her Majesty's Government was not willing to enter into the Convention." It was thus finally acknowledged that the negotiations into which Lord Salisbury had cordially entered, and to which he had readily agreed, even himself suggesting some of its most valuable details, was entirely subordinated to the judgment and desire of the Canadian Government. This Government cannot but feel that Lord Salisbury would have dealt more frankly if in the beginning he had informed Minister Phelps that no arrangement could be made unless Canada concurred in it, and that all negotiation with the British Government direct was but a loss of time.

When you, Mr. Minister, arrived in this country a year ago, there seemed the best prospect for a settlement of this question, but the Russian Minister and the American Secretary of State have had the experience of Mr. Phelps and the Russian Ambassador in London repeated. In our early interviews, there seemed to be as ready a disposition on your part to come to a reasonable and friendly adjustment as there certainly has always been on our part to offer one. You will not forget an interview between yourself, the Russian Minister, and myself, in which the lines for a close season in the Behring's Sea laid down by Lord Salisbury were almost exactly repeated by yourself, and were inscribed on Maps which were before us, a copy of which is in the possession of the Russian Minister, and a copy also in my possession. A prompt adjustment seemed practicable, an adjustment which I am sure would have been honourable to all the countries interested. No obstacles were presented on the American side of the question. No insistance was made upon the Behring's Sea as *mare clausum;* no objection was interposed to the entrance of British ships at all times, on all commercial errands, through all the waters of the Behring's Sea. But our negotiations, as in London, were suddenly broken off for many weeks by the interposition of Canada. When correspondence was resumed on the last day of April, you made an offer for a Mixed Commission of Experts to decide the question at issue.

Your proposition is that pelagic sealing should be prohibited in the Behring's Se[a] during the months of May, June, October, November, and December, and that the[re] should be no prohibition during the months of July, August, and September. Yo[ur] proposition involved the condition that British vessels should be allowed to kill se[als] within 10 miles of the coast of the Pribylov Islands. Lord Salisbury's propositi[on] of 1888 was that, during the same months for which the 10 mile privilege is n[ow] demanded, no British vessel hunting seals should come nearer to the Pribylov Isla[nds] than the 47th parallel of north latitude about 600 miles.

The open season which you thus select for killing is the one when the areas ar[ound] the breeding islands are most crowded with seals, and especially crowded with fe[male] seals, going forth to secure food for the hundreds of thousands of their youn[g, of] which they have recently been delivered. The destruction of the females, w[hich,] according to expert testimony, would be 95 per cent. of all which the sealing ves-

els might readily capture, would inflict deadly loss upon the rookeries. The destruction of the female would be followed by the destruction of their young on the islands, and the herds would be diminished the next year by this wholesale slaughter of the producing females and their offspring. The 10-mile limit would give the marauders the vantage ground for killing the seals that are in the water by tens of thousands searching for food. The opportunity, under cover of fog and night, for stealing silently upon the islands and slaughtering the seals within a mile or even less of the keepers' residence, would largely increase the aggregate destruction. Under such conditions, the British vessels could evenly divide with the United States within the 3-mile limit of its own shores, and upon the islands themselves, the whole advantage of the seal fisheries. The respect which the sealing vessels would pay to the 10-mile limit would be the same that wolves pay to a flock of sheep so placed that no shepherd can guard them. This arrangement, according to your proposal, was to continue for three months of each year, the best months in the
478 season for depredations upon the seal herd. No course was left to the United States or to Russia but to reject the proposition.

The propositions made by Lord Salisbury in 1888, and the propositions made by Her Majesty's Minister in Washington in 1890, are in significant contrast. The circumstances are the same, the conditions are the same, the rights of the United States are the same, in both years. The position of England has changed, because the wishes of Canada have demanded the change. The result then with which the United States is expected to be content is, that her rights within the Behring's Sea and on the islands thereof are not absolute, but are to be determined by one of Her Majesty's provinces.

The British Government would assuredly and rightfully complain if an agreement between her [*sic*] Representative and the Representative of the United States should, without notice, be broken off by the United States, on the ground that the State of California was not willing that it should be completed. California has a Governor chosen independently of the Executive power of the National Government. Canada has a Governor appointed by the British Crown. The Legislature of California enacts laws with which the Executive power of the United States has no right whatever to interfere; Canada enacts laws with which the Executive power of Great Britain can interfere so far as absolutely to annul. Can the Government of the United States be expected to accept as final a decision of the Government of Great Britain that an agreement with the United States cannot be fulfilled because the Province of Canada objects!

This review of the circumstances which led to the present troubles on the Behring's Sea question has been presented by direction of the President, in order to show that the responsibility does not rest with this Government. The change of policy made by Her Majesty's Government without notice, and against the wish of this Government, is, in the President's belief, the cause of all the differences that have followed.

I am further instructed by the President to say, that while your proposals of the 30th April cannot be accepted, the United States will continue the negotiation in hope of reaching an agreement that may conduce to a good understanding, and leave no cause for future dispute. In the President's opinion, owing to delays for which this Government is not responsible, it is too late to conclude such negotiation in time to apply its result the present season. He, therefore, proposes that Her Majesty's Government agree not to permit the vessels (which, in his judgment, do injury to the property of the United States) to enter the Behring's Sea for this season, in order that time may be secured for negotiation that shall not be disturbed by untoward events, or unduly influenced by popular agitation. If this offer be accepted, the President believes that before another season shall open the friendly relations existing between the two countries, and the mutual desire to continue them, will lead to Treaty stipulations which shall be permanent, because just and honourable to all parties.

I have, &c. (Signed) JAMES G. BLAINE.

No. 354.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 11.)

[Telegraphic.]

WASHINGTON, *June 10, 1890.*

As reported in my telegram of the 7th instant, my interview with Mr. Blaine arranged for that day was postponed, and, not having received any further communication from him, I called at his house yesterday.

He then informed me that the President was unwilling that he should proceed with the negotiations until he had answered your Lordship's despatch of the 22nd ultimo, of which I left a copy with him on the 5th. He wished especially to send a reply on the charge that the United States Government were now claiming a right which they had disputed when asserted by Russia before the cession of Alaska. Mr. Blaine promised me this reply before the end of the week, after which he would be ready to resume our interviews.

I complained of the delay, pointing out the danger of "some untoward event," and again urged him to give me an assurance that while the negotiations were continuing there should be no interference with our vessels; such assurance he declined to give, but he said there was little likelihood of anything of the kind happening before July.

I think that the protest contained in your Lordship's despatch of the 29th May should be sent in before the Revenue cutters are beyond the reach of instructions.

479 Subject to your Lordship's approval, I propose to send in the protest on the 14th instant, informing Mr. Blaine that I have deferred doing so until the last moment.

No. 355.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 11.)

[Telegraphic.]

WASHINGTON, *June 10, 1890.*

At the interview with Mr. Blaine mentioned in my immediately preceding telegram, referring to his note of the 4th instant,* I stated that your Lordship regretted that the President should think you wanting in conciliation, that this was probably due to his being unaware that by British law legislation was necessary before any British vessel could be excluded from any part of the high seas.

Legislative sanction was also required for any measures necessary for the preservation of the seal species, and Her Majesty's Government have always been willing to negotiate for the adoption of such measures.

As regards the expressions attributed to your Lordship by Mr. Blaine in his note, I informed him that you did not recognize them, and that you certainly did not think you could have used them in the context mentioned.

No. 356.

Sir J. Pauncefote to the Marquis of Salisbury.—(Substance telegraphed, June 11.)

WASHINGTON, *June 11, 1890.*

MY LORD: I have the honour to inclose copy of the note from Mr. Blaine referred to in my telegram of to-day, together with a copy of the reply which I have returned thereto.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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*See Inclosure 1 in No. 363.

[Inclosure 1 in No. 356.]

Mr. Blaine to Sir J. Pauncefote.

WASHINGTON, *June 11, 1890.*

have shown to the President the extract from the telegram of Lord Salis-
he 9th June, in which his Lordship states that "it is beyond the power of
sty's Government to exclude British or Canadian ships from any portion of
seas, even for an hour, without legislative sanction."
pping to comment upon the fact that his Lordship assumes the waters sur-
the Pribyloff Islands to be "the high seas," the President instructs me to
t would satisfy this Government if Lord Salisbury would, by public Proc-
simply request that vessels sailing under the British flag should abstain
ring the Behring's Sea for the present season. If this request shall be com-
, there will be full time for impartial negotiations, and, as the President
a friendly conclusion of the differences between the two Governments.
ve, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 356.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *June 11, 1890.*

have the honour to acknowledge your note of this day with reference to
ge in a telegram from the Marquis of Salisbury which I communicated to
ir interview of the 9th instant, to the effect that "it is beyond the power
ajesty's Government to exclude British or Canadian ships from any portion
the high seas, even for an hour, without legislative sanction."
ou inform me that without commenting on the fact that his Lordship
umes the waters surrounding the Pribyloff Islands to be the high seas, the
t instructs you to say that it would satisfy your Government if Lord Salis-
ld, by public Proclamation, simply request that vessels sailing under the
ag should abstain from entering the Behring's Sea for the present season.
if this request shall be complied with, there will be full time for impartial
ions, and, as the President hopes, for a friendly conclusion of the differences
the two Governments.
telegraphed the above communication to Lord Salisbury, and I await his
's instructions thereon. In the meanwhile, I take this opportunity of
g you that I reported to his Lordship by telegraph that at the same inter-
gain pressed you for an assurance that British sealing-vessels would not
ered with in the Behring's Sea by United States Revenue cruizers while the
ions continued, but you replied that you could not give such assurance.
this is not a final decision, and that, in the course of the next few days,
ere is yet time to communicate with the Commanders, instructions will
to them to abstain from such interference.
n this hope that I have delayed delivering the formal protest of Her Maj-
overnment announced in my note of the 23rd May.
have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 357.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 11, 1890.*

reply to your telegram of yesterday, you may present the Protest.

No. 358.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received Jun

[Telegraphic.]

WASHINGTON, *June 11,*

Referring to my previous telegram of to-day, I presume th Majesty's Government have no objection to refer to arbitrat question of the legal right of the United States Government to British sealing-vessels from Behring's Sea.

If this be so, I should be glad to know whether they would that the proposed Proclamation should be issued on the expr ditions that the United States Government shall not interfere w flag this season, and, if the award be against them, shall at o damages for past interference, and compensate British sealers fc sustained by them in complying with the Proclamation.

No. 359.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 12,*

In reply to your telegram of yesterday, I have to state that tl serious constitutional difficulties in the way of your proposal.

But it might save time if, without prejudice to either side, yo ask the Government of the United States whether, supposi Majesty's Government were to agree to issue a Proclamation, to its terms, the United States Government will agree to th conditions formulated by you, namely, to refer the legality c proceedings to arbitration, to abstain from any interference w British flag, and, in case of an adverse award, to pay for d resulting from the Proclamation.

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481 No. 360.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 12,*

Referring to my previous telegram of to-day's date, if we cou to terms on this proposal we would suggest some such kind of mation as the following:

"Whereas, the United States and Her Majesty's Governmer agreed to refer to arbitration the legality of the action of the States in making certain captures of British vessels in the Be Sea; and whereas the United States have engaged if the award be adverse to them to pay compensation not only for past interf but for any loss arising from abstention from sealing consequent Proclamation. Captains are hereby requested not to seal in Be Sea during the present season."

No. 361.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 13.)

WASHINGTON, *June 3, 1890.*

MY LORD: I have the honour to inform your Lordship that, since the receipt of Mr. Blaine's note of the 29th ultimo, informing me of the rejection of the draft Convention by his Government, I have been in constant communication with him, with the view of coming to some possible settlement of the Behring's Sea question.

On the 30th ultimo Mr. Blaine informed me that he was to have an interview with the President, the result of which he promised to communicate to me as soon as possible.

I accordingly received a note from him last night, a copy of which is inclosed herewith, in which he states that the President is of opinion that an arbitration could not be concluded in time for this season, but he is anxious to know "whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the Regulation which in 1888 he offered to make permanent."

Your Lordship will observe that the above proposal is identical with that contained at the conclusion of Mr. Blaine's note of the 29th ultimo.

In view of the receipt of your Lordship's telegram of the 31st ultimo, and in order to save time, I at once wrote a note, a copy of which is also inclosed, to Mr. Blaine in reply, in which I informed him that Her Majesty's Government were not prepared to agree to such a Regulation as was suggested by Mr. Blaine.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 361.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 2, 1890.*

MY DEAR SIR JULIAN: I have had a prolonged interview with the President on the matters upon which we are endeavouring to come to an agreement touching the fur-seal question.

The President expresses the opinion that an arbitration could not be concluded in time for this season. Arbitration is of little value unless it is conducted with the most careful deliberation. What the President most anxiously desires to know is whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the Regulation which in 1888 he offered to make permanent. The President regards that as the step which will lead most certainly and most promptly to a friendly agreement between the two Governments.

I have, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 361.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *June 3, 1890.*

DEAR MR. BLAINE: In reply to your letter of yesterday evening touching the fur-seal question, I beg to state that I am in a position to answer at once the inquiry "whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the Regulation which in 1888 he offered to make permanent."

The words which I quote from your letter have reference, no doubt, to the proposal of the United States that British sealing-vessels should be entirely excluded from the Behring's Sea during the seal fishery season. I shall not attempt to discuss here whether what took place in the course of the abortive negotiations of 188 amounted to an offer on the part of Lord Salisbury "to make such a regulation permanent."

It will suffice for the present purpose to state that the further examination of the question which has taken place has satisfied his Lordship that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case. Her Majesty's Government are quite willing to adopt all measures which shall be satisfactorily proved to be necessary for the preservation of the fur seal species, and to enforce such measures on British subjects by proper legislation.

But they are not prepared to agree to such a regulation as is suggested in your letter, for the present fishery season, as, apart from other considerations, there would be no legal power to enforce its observance on British subjects and British vessels.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 362.

Colonial Office to Foreign Office.—(Received June 14.)

DOWNING STREET, *June 13, 1890.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a claim from the owners of the "Pathfinder" for the detention of that vessel at Neagh Bay in March last.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure 1 in No. 362.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, May 20, 1890.*

MY LORD: I have the honour to forward herewith, for transmission to the United States authorities, a copy of an approved Minute of the Privy Council of Canada, to which is attached a formal declaration of the managing owner of the British schooner "Pathfinder," setting forth the particulars of the seizure of that vessel in Neagh Bay, in the State of Washington, by the United States Revenue cutter "Corwin," and preferring a claim for damages to the amount of 3,000 dollars against the United States Government in consequence of the said seizure.

Your Lordship has already been informed in the Deputy Governor's despatch of the 23rd October last of the circumstances of the former seizure of this vessel in Behring's Sea on the 27th August last by the same United States cruizer.

I have, &c.

(Signed) STANLEY OF PRESTON.

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483 [Inclosure 2 in No. 362.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 12th May, 1890.

On a Report dated the 23rd April, 1890, from the Minister of Marine and Fisheries, submitting, in connection with previous Reports on the subject of seizures of British fishing-vessels in the Behring's Sea, and more particularly with reference to Minute of Council approved by your Excellency on the 14th September, 1889, declaring the circumstances of the seizure of the schooner "Pathfinder," a formal declaration of the managing owner of the "Pathfinder," in which are set forth particu-

of the subsequent seizure of the vessel in Neagh Bay, in the State of Washington, United States of America, on the evening of the 27th March, 1890, by the United States Revenue cutter "Thomas D. Corwin;" the Commander having recognized the "Pathfinder" as a vessel which had been seized in Behring's Sea during the previous year.

The "Pathfinder" sought Neagh Bay through stress of weather, and was undergoing repairs at the time of the second seizure. The vessel was towed to Port Townsend and placed in charge of officers from the Revenue cutter, until released on the afternoon of the 29th March.

The Minister further submits a claim advanced by Mr. William Munsie, of Victoria, British Columbia, merchant, as managing owner of the vessel in question, amounting to 3,000 dollars for loss resulting and expenses by reason of the seizure.

The committee on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy of this Minute, together with the paper herewith, to the Right Honourable the Secretary of State for the Colonies, for transmission to the Government of the United States.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 362.]

Declaration of Mr. W. Munsie.

DOMINION OF CANADA, *Province of British Columbia, City of Victoria.*

I, William Munsie, of the city of Victoria, in the Province of British Columbia, merchant, solemnly and sincerely declare as follows:

1. I am the managing owner of the hereinafter mentioned schooner "Pathfinder," duly registered at the port of Victoria aforesaid.

2. The said schooner is employed exclusively in the sealing business, and left the port of Victoria on or about the 17th January last on a sealing voyage along the Pacific coast, south of Vancouver Island.

3. On or about the 8th February last the "Pathfinder" returned to Victoria for repairs, and sailed again for the same purpose on or about the 12th February last.

4. On or about the 23rd day of March last, when off Cape Flattery, the "Pathfinder" encountered a storm and became disabled by the breaking of the tiller-band, and was forced to find shelter in the nearest harbour, Neagh Bay, in the State of Washington, United States of America, lying about 9 miles from Cape Flattery. The "Pathfinder" anchored in Neagh Bay on the 26th March last. On the evening of the 27th March, while still lying in said bay, undergoing repairs, an officer from the United States Revenue cutter "Thomas D. Corwin," boarded the "Pathfinder" and asked for the ship's papers. These were handed to him, inspected by him, and in reply to a question by the captain of the "Pathfinder" as to whether they were all right, he replied that he would report to the Captain of the cutter. Next morning the Captain of the cutter sent an officer on board the "Pathfinder" with a request that her captain would go on board the cutter and take his papers with him. The captain did so, and after looking over the papers the Captain of the cutter said he recognized the "Pathfinder" as a vessel which had been seized last year, and that he must detain her, as the law must be maintained. He then ordered the captain of the "Pathfinder" to heave his anchor, and said he would take the "Pathfinder" to the nearest telegraph station, which was Port Angeles. The captain of the "Pathfinder" protested against being removed, and declined to hoist anchor. The
484 Captain of the cutter replied that if he did not hoist anchor men would be sent from the cutter to do so. Upon this the captain of the "Pathfinder" went back to his vessel and ordered his men to heave the anchor up.

The "Pathfinder" was then taken in tow by the cutter, and taken to Port Townsend. At that place two officers from the cutter were placed on board the "Pathfinder," and remained in charge until the "Pathfinder" was released. The captain of the "Pathfinder" entered a protest from the office of the Collector of Customs, Port Townsend, and also filed a protest with the Captain of the cutter. After doing so he was persuaded to withdraw both protests until reply had been received from Washington as to what disposition would be made of the "Pathfinder."

5. The "Pathfinder" was released on the afternoon of the 29th March last, and arrived at Victoria aforesaid on the morning of the 31st March last.

6. By reason of the said seizure or detention of the "Pathfinder," her owners have lost at least a week of the best period of the spring seasons for sealing. In consequence, also, of the seizure and detention, a number of the crew of the "Pathfinder" have deserted, causing inconvenience and loss in filling their places.

No. 358.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 12.)

[Telegraphic.]

WASHINGTON, *June 11, 1890.*

Referring to my previous telegram of to-day, I presume that Her Majesty's Government have no objection to refer to arbitration the question of the legal right of the United States Government to exclude British sealing-vessels from Behring's Sea.

If this be so, I should be glad to know whether they would consent that the proposed Proclamation should be issued on the express conditions that the United States Government shall not interfere with our flag this season, and, if the award be against them, shall at once pay damages for past interference, and compensate British sealers for losses sustained by them in complying with the Proclamation.

No. 359.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 12, 1890.*

In reply to your telegram of yesterday, I have to state that there are serious constitutional difficulties in the way of your proposal.

But it might save time if, without prejudice to either side, you could ask the Government of the United States whether, supposing her Majesty's Government were to agree to issue a Proclamation, and as to its terms, the United States Government will agree to the three conditions formulated by you, namely, to refer the legality of their proceedings to arbitration, to abstain from any interference with the British flag, and, in case of an adverse award, to pay for damages resulting from the Proclamation.

481

No. 360.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 12, 1890.*

Referring to my previous telegram of to-day's date, if we could come to terms on this proposal we would suggest some such kind of Proclamation as the following:

"Whereas, the United States and Her Majesty's Government have agreed to refer to arbitration the legality of the action of the United States in making certain captures of British vessels in the Behring's Sea; and whereas the United States have engaged if the award should be adverse to them to pay compensation not only for past interference, but for any loss arising from abstention from sealing consequent on this Proclamation. Captains are hereby requested not to seal in Behring's Sea during the present season."

No. 361.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 13.)

WASHINGTON, *June 3, 1890.*

MY LORD: I have the honour to inform your Lordship that, since the receipt of Mr. Blaine's note of the 29th ultimo, informing me of the rejection of the draft Convention by his Government, I have been in constant communication with him, with the view of coming to some possible settlement of the Behring's Sea question.

On the 30th ultimo Mr. Blaine informed me that he was to have an interview with the President, the result of which he promised to communicate to me as soon as possible.

I accordingly received a note from him last night, a copy of which is inclosed herewith, in which he states that the President is of opinion that an arbitration could not be concluded in time for this season, but he is anxious to know "whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the Regulation which in 1888 he offered to make permanent."

Your Lordship will observe that the above proposal is identical with that contained at the conclusion of Mr. Blaine's note of the 29th ultimo.

In view of the receipt of your Lordship's telegram of the 31st ultimo, and in order to save time, I at once wrote a note, a copy of which is also inclosed, to Mr. Blaine in reply, in which I informed him that Her Majesty's Government were not prepared to agree to such a Regulation as was suggested by Mr. Blaine.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 361.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 2, 1890.*

MY DEAR SIR JULIAN: I have had a prolonged interview with the President on the matters upon which we are endeavouring to come to an agreement touching the fur-seal question.

The President expresses the opinion that an arbitration could not be concluded in time for this season. Arbitration is of little value unless it is conducted with the most careful deliberation. What the President most anxiously desires to know is whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the Regulation which in 1888 he offered to make permanent. The President regards that as the step which will lead most certainly and most promptly to a friendly agreement between the two Governments.

I have, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 361.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *June 3, 1890.*

DEAR MR. BLAINE: In reply to your letter of yesterday evening touching the fur-seal question, I beg to state that I am in a position to answer at once the inquiry "whether Lord Salisbury, in order to promote a friendly solution of the question, will make for a single season the Regulation which in 1888 he offered to make permanent."

7. In respect of the said seizure and detention, and of the losses thereby resulting, and for the expenses incurred by reason of such seizure or detention, I, as managing owner of the "Pathfinder," claim of and from the Government of the United States as damages the sum of 3,000 dollars.

And I, William Munsie, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Acts respecting extra-judicial oaths.

[L. S.] (Signed) WM. MUNSIE.

Declared at the city of Victoria, British Columbia, this 3rd day of April, A. D. 1890, before me,

(Signed) ARTHUR L. BELYEA,
A Notary Public by Royal Authority in and for the Province of British Columbia.

No. 363.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 16.)

WASHINGTON, *June 6, 1890.*

MY LORD: With reference to my despatch of the 3rd instant, I have the honour to inclose copy of a further note which I have received from Mr. Blaine on the subject of the proposed exclusion of British sealers from Behring's Sea during the present season, together with the reply which I have sent thereto.

I have, &c.

(Signed) J. PAUNCEFOTE.

[Inclosure 1 in No. 363.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 4, 1890.*

SIR: I have your favour of the 2nd instant.

The President sincerely regrets that his considerate and most friendly proposal for adjustment of all troubles connected with the Behring's Sea should be so promptly rejected.

The paragraph in your note in which you refer to Lord Salisbury's position needs explanation. I quote it in full:

"It will suffice for the present purpose to state that the further examination of the question which has taken place has satisfied his Lordship that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case."

I do not know what may have been the "examination of the question" that "has satisfied Lord Salisbury that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case." I only know that the most extreme measure proposed came from Lord Salisbury himself, in suggesting a close season as far south as the 47th parallel of latitude, to last from the 15th April to the 1st October in each year.

485 At the close of his negotiations with Mr. Phelps, in September 1888, his Lordship, still approving the "measures to prevent the wanton destruction of so valuable an industry," declared, apparently with regret, that "the Canadian Government objected to any such restrictions" (*i. e.*, as those which his Lordship had in part proposed and wholly approved), and that, "until its consent would be obtained, Her Majesty's Government was not willing to enter into the Convention." It is evident, therefore, that in 1888 Lord Salisbury abruptly closed the negotiations because, in his own phrase, "the Canadian Government objected." He assigned no other reason whatever, and, until your note of the 2nd was received this Government had never been informed that his Lordship entertained any other objections than those expressed in September 1888.

It is proper to recall to your recollection that at divers times in personal conversation I have proposed to you, on behalf of this Government, a close season materially shorter in point of time than was voluntarily offered by Lord Salisbury, and much

less extended in point of space. Instead of going as far south as the 47th parallel, I have frequently indicated the willingness of this Government to take the dividing line between the Pacific Ocean and the Behring's Sea—the line which is tangent to the southernmost island of the Aleutian group—being as near as may be the 50th parallel of north latitude.

Early in April you will remember that you suggested to me the advantage that might follow if the sailing of Revenue cutters for Behring's Sea could be postponed till the middle of May. Though that was a matter entirely under the control of the Treasury Department, Secretary Windom promptly complied with your request, and by the President's direction a still longer postponement was ordered in the hope that some form of equitable adjustment might be proposed by Her Majesty's Government. Even the Revenue cutter which annually passes through Behring's Sea carrying supplies to the relief station at Point Barrow in the Arctic Ocean—72nd degree of north latitude—was held back, lest her appearance in Behring's Sea might be misrepresented as a non-observance of the understanding between us.

It is perfectly clear that if your claim for British vessels to kill seals within 10 miles of the Pribyloff Islands, directly after the the mothers are delivered of their young, should be granted, the Behring's Sea would swarm with vessels engaged in sealing, not forty or fifty as now, but many hundreds, through the summer months. If that privilege should be given to Canadian vessels, it must of course be conceded at once to American vessels. If the rookeries are to be thrown open to Canadians, they would certainly, as a matter of common right, be thrown open to citizens of the United States.

The seal-mothers, which require an area of from 40 to 50 miles from the islands on all sides to secure food for their young, would be slaughtered by hundreds of thousands, and in a brief space of time there would no seals in the Behring's Sea. Similar causes have uniformly produced similar effects. Seal rookeries in all parts of the world have been destroyed in that way. The present course of Great Britain will produce the same effect on the only seal rookery of any value left in the waters of the oceans and seas of the globe. The United States have leased the privilege of sealing because only in that way can the rookeries be preserved, and only in that way can this Government derive a revenue from the Pribyloff Islands. Great Britain would perhaps gain something for a few years, but it would be at the expense of destroying a valuable interest belonging to a friendly nation, an interest which the civilized world desires to have preserved.

I observe that you quote Treasury Agent George R. Tingle, in your despatch of the 30th April, as showing that, notwithstanding the depredations of marauders, the total number of seals had increased in the Behring's Sea. The rude mode of estimating the total number can readily lead to mistakes, and other agents have differed from Mr. Tingle. But, aside from the correctness or incorrectness of Mr. Tingle's conclusions on that point, may I ask upon what grounds do the Canadian vessels assert a claim, unless they assume that they have a title to the increase of the seal herd? If the claim of the United States to the seals of the Pribyloff Islands be well founded, we are certainly entitled to the increase as much as a sheep-grower is entitled to the increase of his flock.

Having introduced Mr. Tingle, who has very extensive knowledge touching the seals in Behring's Sea, as well as the habits of the Canadian marauders, I trust you will not discredit his testimony. The following statement, made by Mr. Tingle in his official Report to the Treasury Department at the close of the season of 1887, is respectfully commended to your consideration:

486 "I am now convinced, from what I gather in questioning the men belonging to captured schooners, and from reading the logs of the vessels, that not more than one seal in ten killed and mortally wounded is landed on the boats and skinned; thus you will see the wanton destruction of seal life without any benefit whatever. I think 30,000 skins taken this year is a low estimate on this basis; 300,000 fur-seals were killed to secure that number, or three times as many as the Alaska Commercial Company are allowed by law to kill. You can readily see that this great slaughter of seals will in a few years make it impossible for 100,000 skins to be taken on the islands by the lessees. I earnestly hope more rigorous measures will be adopted by the Government in dealing with these destructive law-breakers."

Both of Mr. Tingle's statements are made in his official capacity, and in both cases he had no temptation to state anything except what he honestly believed to be the truth.

The President does not conceal his disappointment that, even for the sake of securing an impartial arbitration of the question at issue, Her Majesty's Government is not willing to suspend for a single season the practice which Lord Salisbury described in 1888 as "the wanton destruction of a valuable industry," and which this Government has uniformly regarded as an unprovoked invasion of its established rights.

I have, &c.

(Signed) JAMES G. BLAINE.

The words which I quote from your letter have reference, no doubt, to the proposal of the United States that British sealing-vessels should be entirely excluded from the Behring's Sea during the seal fishery season. I shall not attempt to discuss here whether what took place in the course of the abortive negotiations of 1888 amounted to an offer on the part of Lord Salisbury "to make such a regulation permanent."

It will suffice for the present purpose to state that the further examination of the question which has taken place has satisfied his Lordship that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case. Her Majesty's Government are quite willing to adopt all measures which shall be satisfactorily proved to be necessary for the preservation of the fur seal species, and to enforce such measures on British subjects by proper legislation.

But they are not prepared to agree to such a regulation as is suggested in your letter, for the present fishery season, as, apart from other considerations, there would be no legal power to enforce its observance on British subjects and British vessels.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 362.

Colonial Office to Foreign Office.—(Received June 14.)

DOWNING STREET, *June 13, 1890.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a claim from the owners of the "Pathfinder" for the detention of that vessel at Neagh Bay in March last.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure 1 in No. 362.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, May 20, 1890.*

MY LORD: I have the honour to forward herewith, for transmission to the United States authorities, a copy of an approved Minute of the Privy Council of Canada, to which is attached a formal declaration of the managing owner of the British schooner "Pathfinder," setting forth the particulars of the seizure of that vessel in Neagh Bay, in the State of Washington, by the United States Revenue cutter "Corwin," and preferring a claim for damages to the amount of 3,000 dollars against the United States Government in consequence of the said seizure.

Your Lordship has already been informed in the Deputy Governor's despatch of the 23rd October last of the circumstances of the former seizure of this vessel in Behring's Sea on the 27th August last by the same United States cruizer.

I have, &c.

(Signed) STANLEY OF PRESTON.

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483 [Inclosure 2 in No. 362.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 12th May, 1890.

On a Report dated the 23rd April, 1890, from the Minister of Marine and Fisheries, submitting, in connection with previous Reports on the subject of seizures of British fishing-vessels in the Behring's Sea, and more particularly with reference to the Minute of Council approved by your Excellency on the 14th September, 1889, detailing the circumstances of the seizure of the schooner "Pathfinder," a formal declaration of the managing owner of the "Pathfinder," in which are set forth particulars

of the subsequent seizure of the vessel in Neagh Bay, in the State of Washington, United States of America, on the evening of the 27th March, 1890, by the United States Revenue cutter "Thomas D. Corwin;" the Commander having recognized the "Pathfinder" as a vessel which had been seized in Behring's Sea during the previous year.

The "Pathfinder" sought Neagh Bay through stress of weather, and was undergoing repairs at the time of the second seizure. The vessel was towed to Port Townsend and placed in charge of officers from the Revenue cutter, until released on the afternoon of the 29th March.

The Minister further submits a claim advanced by Mr. William Munsie, of Victoria, British Columbia, merchant, as managing owner of the vessel in question, amounting to 3,000 dollars for loss resulting and expenses by reason of the seizure.

The committee on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy of this Minute, together with the paper herewith, to the Right Honourable the Secretary of State for the Colonies, for transmission to the Government of the United States.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 362.]

Declaration of Mr. W. Munsie.

DOMINION OF CANADA, *Province of British Columbia, City of Victoria.*

I, William Munsie, of the city of Victoria, in the Province of British Columbia, merchant, solemnly and sincerely declare as follows:

1. I am the managing owner of the hereinafter mentioned schooner "Pathfinder," duly registered at the port of Victoria aforesaid.

2. The said schooner is employed exclusively in the sealing business, and left the port of Victoria on or about the 17th January last on a sealing voyage along the Pacific coast, south of Vancouver Island.

3. On or about the 8th February last the "Pathfinder" returned to Victoria for repairs, and sailed again for the same purpose on or about the 12th February last.

4. On or about the 23rd day of March last, when off Cape Flattery, the "Pathfinder" encountered a storm and became disabled by the breaking of the tiller-band, and was forced to find shelter in the nearest harbour, Neagh Bay, in the State of Washington, United States of America, lying about 9 miles from Cape Flattery. The "Pathfinder" anchored in Neagh Bay on the 26th March last. On the evening of the 27th March, while still lying in said bay, undergoing repairs, an officer from the United States Revenue cutter "Thomas D. Corwin," boarded the "Pathfinder" and asked for the ship's papers. These were handed to him, inspected by him, and in reply to a question by the captain of the "Pathfinder" as to whether they were all right, he replied that he would report to the Captain of the cutter. Next morning the Captain of the cutter sent an officer on board the "Pathfinder" with a request that her captain would go on board the cutter and take his papers with him. The captain did so, and after looking over the papers the Captain of the cutter said he recognized the "Pathfinder" as a vessel which had been seized last year, and that he must detain her, as the law must be maintained. He then ordered the captain of the "Pathfinder" to heave his anchor, and said he would take the "Pathfinder" to the nearest telegraph station, which was Port Angeles. The captain of the "Pathfinder" protested against being removed, and declined to hoist anchor. The
484 Captain of the cutter replied that if he did not hoist anchor men would be sent from the cutter to do so. Upon this the captain of the "Pathfinder" went back to his vessel and ordered his men to heave the anchor up.

The "Pathfinder" was then taken in tow by the cutter, and taken to Port Townsend. At that place two officers from the cutter were placed on board the "Pathfinder," and remained in charge until the "Pathfinder" was released. The captain of the "Pathfinder" entered a protest from the office of the Collector of Customs, Port Townsend, and also filed a protest with the Captain of the cutter. After doing so he was persuaded to withdraw both protests until reply had been received from Washington as to what disposition would be made of the "Pathfinder."

5. The "Pathfinder" was released on the afternoon of the 29th March last, and arrived at Victoria aforesaid on the morning of the 31st March last.

6. By reason of the said seizure or detention of the "Pathfinder," her owners have lost at least a week of the best period of the spring seasons for sealing. In consequence, also, of the seizure and detention, a number of the crew of the "Pathfinder" have deserted, causing inconvenience and loss in filling their places.

The words which I quote from your letter have reference, no doubt, to the pr posal of the United States that British sealing-vessels should be entirely exclude from the Behring's Sea during the seal fishery season. I shall not attempt to discu here whether what took place in the course of the abortive negotiations of 18 amounted to an offer on the part of Lord Salisbury "to make such a regulatio permanent."

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But they are not prepared to agree to such a regulation as is suggested in your letter, for the present fishery season, as, apart from other considerations, there would be no legal power to enforce its observance on British subjects and British vessels.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 362.

Colonial Office to Foreign Office.—(Received June 14.)

DOWNING STREET, *June 13, 1890.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a claim from the owners of the "Pathfinder" for the detention of that vessel at Neagh Bay in March last.

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Your Lordship has already been informed in the Deputy Governor's despatch of the 23rd October last of the circumstances of the former seizure of this vessel in Behring's Sea on the 27th August last by the same United States cruizer.

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of the subsequent seizure of the vessel in Neagh Bay, in the State of Washington, United States of America, on the evening of the 27th March, 1890, by the United States Revenue cutter "Thomas D. Corwin;" the Commander having recognized the "Pathfinder" as a vessel which had been seized in Behring's Sea during the previous year.

The "Pathfinder" sought Neagh Bay through stress of weather, and was undergoing repairs at the time of the second seizure. The vessel was towed to Port Townsend and placed in charge of officers from the Revenue cutter, until released on the afternoon of the 29th March.

The Minister further submits a claim advanced by Mr. William Munsie, of Victoria, British Columbia, merchant, as managing owner of the vessel in question, amounting to 3,000 dollars for loss resulting and expenses by reason of the seizure.

The committee on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy of this Minute, together with the paper herewith, to the Right Honourable the Secretary of State for the Colonies, for transmission to the Government of the United States.

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(Signed) JOHN J. McGEE,
Clerk, Privy Council.

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6. By reason of the said seizure or detention of the "Pathfinder," her owners have lost at least a week of the best period of the spring seasons for sealing. In consequence, also, of the seizure and detention, a number of the crew of the "Pathfinder" have deserted, causing inconvenience and loss in filling their places.

7. In respect of the said seizure and detention, and of the losses thereby resulting, and for the expenses incurred by reason of such seizure or detention, I, as managing owner of the "Pathfinder," claim of and from the Government of the United States as damages the sum of 3,000 dollars.

And I, William Munsie, make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Acts respecting extra-judicial oaths.

[L. S.] (Signed) WM. MUNSIE.

Declared at the city of Victoria, British Columbia, this 3rd day of April, A. D. 1890, before me,

(Signed) ARTHUR L. BELYEA,
A Notary Public by Royal Authority in and for the Province of British Columbia.

No. 363.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 16.)

WASHINGTON, *June 6, 1890.*

MY LORD: With reference to my despatch of the 3rd instant, I have the honour to inclose copy of a further note which I have received from Mr. Blaine on the subject of the proposed exclusion of British sealers from Behring's Sea during the present season, together with the reply which I have sent thereto.

I have, &c.

(Signed) J. PAUNCEFOTE.

[Inclosure 1 in No. 363.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 4, 1890.*

SIR: I have your favour of the 2nd instant.

The President sincerely regrets that his considerate and most friendly proposal for adjustment of all troubles connected with the Behring's Sea should be so promptly rejected.

The paragraph in your note in which you refer to Lord Salisbury's position needs explanation. I quote it in full:

"It will suffice for the present purpose to state that the further examination of the question which has taken place has satisfied his Lordship that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case."

I do not know what may have been the "examination of the question" that "has satisfied Lord Salisbury that such an extreme measure as that proposed in 1888 goes far beyond the requirements of the case." I only know that the most extreme measure proposed came from Lord Salisbury himself, in suggesting a close season as far south as the 47th parallel of latitude, to last from the 15th April to the 1st October in each year.

485 At the close of his negotiations with Mr. Phelps, in September 1888, his Lordship, still approving the "measures to prevent the wanton destruction of so valuable an industry," declared, apparently with regret, that "the Canadian Government objected to any such restrictions" (*i. e.*, as those which his Lordship had in part proposed and wholly approved), and that, "until its consent would be obtained, Her Majesty's Government was not willing to enter into the Convention." It is evident, therefore, that in 1888 Lord Salisbury abruptly closed the negotiations because, in his own phrase, "the Canadian Government objected." He assigned no other reason whatever, and, until your note of the 2nd was received this Government had never been informed that his Lordship entertained any other objections than those expressed in September 1888.

It is proper to recall to your recollection that at divers times in personal conversation I have proposed to you, on behalf of this Government, a close season materially shorter in point of time than was voluntarily offered by Lord Salisbury, and much

less extended in point of space. Instead of going as far south as the 47th parallel, I have frequently indicated the willingness of this Government to take the dividing line between the Pacific Ocean and the Behring's Sea—the line which is tangent to the southernmost island of the Aleutian group—being as near as may be the 50th parallel of north latitude.

Early in April you will remember that you suggested to me the advantage that might follow if the sailing of Revenue cutters for Behring's Sea could be postponed till the middle of May. Though that was a matter entirely under the control of the Treasury Department, Secretary Windom promptly complied with your request, and by the President's direction a still longer postponement was ordered in the hope that some form of equitable adjustment might be proposed by Her Majesty's Government. Even the Revenue cutter which annually passes through Behring's Sea carrying supplies to the relief station at Point Barrow in the Arctic Ocean—72nd degree of north latitude—was held back, lest her appearance in Behring's Sea might be misrepresented as a non-observance of the understanding between us.

It is perfectly clear that if your claim for British vessels to kill seals within 10 miles of the Pribyloff Islands, directly after the the mothers are delivered of their young, should be granted, the Behring's Sea would swarm with vessels engaged in sealing, not forty or fifty as now, but many hundreds, through the summer months. If that privilege should be given to Canadian vessels, it must of course be conceded at once to American vessels. If the rookeries are to be thrown open to Canadians, they would certainly, as a matter of common right, be thrown open to citizens of the United States.

The seal-mothers, which require an area of from 40 to 50 miles from the islands on all sides to secure food for their young, would be slaughtered by hundreds of thousands, and in a brief space of time there would no seals in the Behring's Sea. Similar causes have uniformly produced similar effects. Seal rookeries in all parts of the world have been destroyed in that way. The present course of Great Britain will produce the same effect on the only seal rookery of any value left in the waters of the oceans and seas of the globe. The United States have leased the privilege of sealing because only in that way can the rookeries be preserved, and only in that way can this Government derive a revenue from the Pribyloff Islands. Great Britain would perhaps gain something for a few years, but it would be at the expense of destroying a valuable interest belonging to a friendly nation, an interest which the civilized world desires to have preserved.

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The President does not conceal his disappointment that, even for the sake of securing an impartial arbitration of the question at issue, Her Majesty's Government is not willing to suspend for a single season the practice which Lord Salisbury described in 1888 as "the wanton destruction of a valuable industry," and which this Government has uniformly regarded as an unprovoked invasion of its established rights.

I have, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 363.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *June 6, 1890.*

SIR: I have the honour to acknowledge the receipt of your official note of the 4th instant, commenting upon the reply which I returned to the inquiry contained in your letter of the 2nd instant, whether the Marquis of Salisbury would, in order to promote a friendly solution of the fur-seal question, agree to the total exclusion of British sealers from the Behring's Sea during the present fishery season. You expressed the regret of the President that "his considerate and most friendly proposal for the adjustment of all trouble connected with the Behring's Sea should be so promptly rejected."

I have this day transmitted a copy of your note to Lord Salisbury, and, pending further instructions, I will abstain from pursuing the discussion on the various points with which it deals, especially as the views of Her Majesty's Government on the main questions involved are stated with great precision in Lord Salisbury's despatch of the 22nd May, which I had the honour to read to you yesterday, and of which, in accordance with your desire, I left a copy in your hands.

I would only observe that, as regards the sufficiency or insufficiency of the radius of 10 miles around the rookeries "within which Her Majesty's Government propose that sealers should be excluded," no opportunity was afforded me of discussing the question before the proposals of Her Majesty's Government were summarily rejected.

I may mention also that I fear there has been some misapprehension as regards a request which you appear to have understood me to make respecting the date of the sailing of United States Revenue cutters for Behring's Sea. I have no recollection of having made any suggestion with reference to those Revenue cutters, except that their Commanders should receive explicit instructions not to apply the Municipal Law of the United States to British vessels in Behring's Sea outside of territorial waters.

I have, &c.

(Signed) J. PAUNCEFOTE.

No. 364.

Colonial Office to Foreign Office.—(Received June 18.)

DOWNING STREET, *June 17, 1890.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of the Annual Report for 1889 of the Canadian Minister of Marine and Fisheries.

I am to call attention to the Report on the fur-seal fishery.

I am, &c.

(Signed) JOHN BRAMSTON.

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487 [Inclosure in No. 364.]

Extract from the Annual Report of the Department of Fisheries, Dominion of Canada, for the calendar year 1889.

MARINE FURS.

The Returns show an increase in the catch this season of 5,587 fur-sealskins, and twenty-five sea-otters. There were 1,922 more sealskins taken on the coast by our vessels than in 1888, and 2,558 more by foreigners, who sold their catches in Victoria

following Table shows the detailed catch of the sealing fleet for this season:

showing the Number of Vessels, Boats, and Men engaged in the Marine Fur Fishery of British Columbia, with the Products and Values, for the Season of 1889.

e of Vessel.	Name of Owner.	Tonnage.	Number of Boats.	Number of Men.	Seals caught on coast of British Columbia.	Seals caught in Behring's Sea.	Total Number of Seals.	Value.
ler	Carne and Munsie	66	6	24	942	48	990	$9,900
	" "	92	6	22	1,481	2,182	3,663	36,630
ylor	" "	42	11	25	748		748	7,480
	Babbington and Co	63	7	23	482	828	1,310	13,100
Moore	C. Hackett	213	7	23	802	1,318	2,120	21,200
	Morris Moss	70	18	41	500	532	1,032	10,320
	" "	70	6	21	384	1,769	2,180	21,800
	" "	68	13	26	280	74	354	3,540
	E. B. Marvin	123	25	52	1,364	1,626	2,990	20,900
	Adolph Wasburg	41	13	38	816		816	8,160
	Hall and Goepel	40	13	29	135	29	164	1,640
	E. W. Bucknam	90	6	22	934	1,400	2,334	23,340
	Chas. Spring	58	10	24	624	800	1,424	14,240
	" "	79	10	25	340	1,764	2,104	21,040
Mack	J. Dodd	70	6	25	777	1,290	2,067	20,670
ayward	J. D. Warren	59	12	29	557	1,643	2,200	22,000
	Victor Jacobsen	46	10	21	200	500	700	7,000
in Chief	" "	26	5	13	210		210	2,100
er	H. Payton	15	6	15	178		178	1,780
iamond	M. Moss	81	12	29	629	55	684	6,840
	Wm. Grant	67	7	22	500	700	1,200	12,000
		10	2	5	80		80	800
d		10	2	5	22		22	220
		1,499	213	559	12,985	16,585	29,570	295,700
r caught by sealing fleet, 15, at 100 dollars each								1,500
te of seals purchased from Indians							4,000	40,000
sea-otter purchased from Indians, 100, at 100 dollars each								10,000
hair seals, 7,000								2,625
rand total by Canadian vessels							33,570	349,825

Fur-*Seals caught by Foreign Vessels and disposed of in Victoria, British Columbia.*

Name of Vessel.		Number of Seals caught on British Columbia coast.	Number of Seals caught in Behring's Sea.	Total Number of Seals.	Total Value.
L. Rich	American	1,419		1,419	$14,190
go	"	69		69	690
ewis	"	242		242	2,420
	"	317		317	3,170
Alger	"	253		253	2,530
Dinnes	"	18	700	718	7,180
	"		625	625	6,250
Adams	"		1,553	1,553	15,530
Rulter	"		525	525	5,250
	German	240	1,467	1,707	17,070
otal by foreigners		2,558	4,870	7,428	74,280

ill thus be seen that there are more vessels in the trade than last year. This n account of an anticipated settlement of the Behring's Sea question. The s had been previously purchased on the Atlantic coast for the purpose of nting this trade in Behring's Sea, but when they reached this coast and found estion was still unsettled, they paid more attention to hunting on the coast.

No. 365.

Admiralty to Foreign Office.—(Received June 20.)

ADMIRALTY, *June 19*

SIR: I am commanded by the Lords Commissioners of the A
to transmit, for the perusal of the Secretary of State for
Affairs, copies of two letters from Captain Hulton, of her M
ship "Amphion," respecting the Behring's Sea fishery.

I am, &c.

(Signed) EVAN MACGR

[Inclosure 1 in No. 365.—Extract.]

Captain Hulton to Admiralty.

"AMPHION," AT ESQUIMALT, *May*

With reference to your recent telegrams to hasten the repairs of Her
ship "Amphion," if possible, she being very much required, and your in
to the movements of the sealing fleet to Behring's Sea, I have the honour
ment my telegraphic replies as follows:

I inclose herewith a list of the sailing-schooners cleared from Victori
season's fishing, and about to clear, furnished me by the Lieutenant-Gov
Honour Hugh Nelson, in reply to my letter of which a copy is attached.

The sealing fleet have just about finished their coast catching, moving
from the Californian coast, and are now midway between Clayaquot Soun
southernmost of the Shumagan Islands.

The vessels mostly cleared in February and March, and few of them
the autumn unless in distress of some sort, owing to difficulties with th
with drunkenness and desertion. One or two vessels communicate with t
time to time, bringing back the catches of skins, &c.

As they work north they replenish at a sealing store in Clayaquot Soun
the end of June they have all assembled in the Shumagan Islands, and a
to be found in North-East Harbour, on the southernmost but one of the
that group.

A second point at which the vessels are then to be found is at Sand Poi
50′ to the northward of North-East Harbour, where the vessels beach to
repair, revictual and water.

489 A third harbour which they use, a little north of Sand Point, is
Harbour, but it is smaller, and not so much frequented.

About the 20th June a small vessel (probably a small steam-tug) will go
above rendezvous with letters, &c., and to receive skins; she would arr
about the 27th or 28th June, and the schooners would again weigh and ge
the seals, working their way to the passes, principally the Unimak and the
as it is called (172° west longitude). These passes the vessels all go throug
the 1st and 10th July.

The time the vessels are in the Behring's Sea is from the 1st or 10th July
the 15th or 30th September, though, if a vessel is lucky, she has frequent
the latter half of August, not to return again that season.

[Inclosure 2 in No. 365.]

Captain Hulton to Lieutenant-Governor Nelson.

"AMPHION," AT ESQUIMALT, *May*

SIR: I have the honour to request that you will be good enough to ins
Collector of Customs to furnish me as quickly as possible with a detailed
sealing-vessels owned by British subjects that have been cleared for the n
sumably for Behring's Sea) for this summer's sealing.

On the list, I am anxious to have shown me the tonnage and rig of th
names of the captains, numbers of their crews, and the names and address
owners; and I further request that the Collector of Customs may be direct
me every assistance in getting the fullest information possible.

I have, &c.

(Signed) E. GREY H

[Inclosure 3 in No. 365.]

SPECIAL MEMORANDUM FOR LIEUTENANT-GOVERNOR NELSON.

Sealing Vessels cleared for Behring's Sea.

No.	Schooner.	Master.	Tons.	Crew.
1	Juanita, now Mascot	L. Olsen	40	4
2	Black Diamond, now Katharine	H. Smith	81	5
3	Mollie Adams, now E. B. Marvin	R. E. McKeill	118	23
4	Walter L. Rich	H. F. Siewerd	76	23
5	Ocean Belle	W. O. Leary	86	23
6	Venture	J. McLeod	48	4
7	W. P. Sayward	G. R. Ferey	60	7
8	Sea Lion	F. Magnesen	50	24
9	Triumph	C. Cox	98	20
10	Maggie Mack	John M. Dodd	71	21
11	Minnie	V. Jacobsen	46	10
12	Sapphire	W. Cox	126	9
13	Mary Taylor	J. Davenport	43	3
14	Lily	G. McDonald	69	6
15	Aurora	F. Harold	41	4
16	Penelope	A. C. Folger	41	20
17	Theresa	John Steele	63	23
18	Favorite	L. McLean	64	6
19	Viva	W. E. Baker	92	23
20	Mary Ellen	D. McLean	63	27
21	Mountain Chief	James Newassum (Indian)	23	5
22	Sierra	Thos. Cheetmatlet (Indian)	25	5
23	Kate	O. Thomas	58	5
24	Wanderer	Hy. Paxton	26	About to clear.

The before-mentioned all of Victoria Registry.

490 These last-mentioned of Registry at Ports named:

No.	Schooner.	Master.	Tons.	Crew.
25	Annie C. Moore	C. Hackett, of Shelbourne, Nova Scotia	117	22
26	Ariel	John Reilly, of St. John's, Newfoundland	90	7
27	C. H. Tupper	C. S. Kelly	99	9
28	Beatrice	C. Keefe	.....	5

Of Shanghae, but of British Registry:

29	Carmelite	Is overdue from Halifax. Particulars not as yet obtainable.

The following of Foreign Registry:

30	Adele, German, registered at Shanghae.	G. W. O. Hansen	50	5

And some five vessels of United States sealing-schooners that make this their port of departure.

(Signed) A. R. MILNE, *Collector of Customs.*

[Inclosure 4 in No. 365.]

Further Memorandum in re *Sealers for Captain Hutton.*

No.	Schooner.		
1	Juanita, now Mascot	John Kinsman	64 shares.
2	Black Diamond, now Katharine	John L. Penny	Ditto.
3	Mollie Adams, now E. B. Marvin	John G. Cox	Managing owi
4	Pathfinder, now Pioneer	William Munsie	Ditto.
5	Walter L. Rich	Charles N. Cameron	Ditto.
6	Ocean Belle	John Kinsman	Ditto.
7	Venture	Donald Urquhart	Ditto.
8	W. P. Sayward	Andrew Laing	Ditto.
9	Sea Lion	George Collins	64 shares.
10	Triumph	John G. Cox	Managing own
11	Maggie Mack	John Dodd	Ditto.
12	Minnie	V. Jacobsen	64 shares.
13	Sapphire	John G. Cox	Managing own
14	Mary Taylor	William Munsie	Ditto.
15	Lily	V. Jacobsen	Ditto.
16	Aurora	A. Waaberg	Ditto.
17	Penelope	Morris Moss	Ditto.
18	Theresa	P. A. Babbington	Ditto.
19	Favorite	Charles Spring	64 shares.
20	Viva	William Munsie	Managing own
21	Mary Allen	Morris Moss	64 shares.
22	Mountain Chief	James Newassum	Managing own
23	Sierra	Thos. Cheetmatlet	Ditto.
24	Kate	Charles Spring	64 shares.
25	Wanderer	Hy. Paxton	Managing own
26	Annie C. Moore	Not recorded in Victoria, B. C.	
27	Ariel	Ditto.	
28	C. H. Tupper	Ditto.	
29	Beatrice	Ditto.	
30	Carmelite	Ditto.	
31	Adele	A German vessel, registered in Shanghae.	

The five United States sealers mentioned in List No. 1 are, of course, not of rec at Victoria, B. C.

NOTE.—The address of all the above-mentioned owners is Victoria, B. C., with exception of John L. Penny, of the schooner "Katharine," whose address is Cla quot Sound, B. C., via Victoria, B. C.

(Signed) A. R. MILNE,
Collector of Customs and Registrar of Shipping

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491 No. 366.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *June 20, 1890*

SIR: I have to acknowledge your despatch of the 30th ultimo, incl ing copy of a note from Mr. Blaine, dated the 29th ultimo.

It contains several references to communications which passed tween the two Governments in the time of Mr. Blaine's predeces especially in the spring of 1888. Without referring at present to otl portions of Mr. Blaine's note, I wish only now to point out some er in the impressions which he has gathered from the records in his off with respect to those communications. He states that on the 23rd Ap of that year I informed the American Chargé d'Affaires, Mr. Whi that it was proposed to give effect to a Seal Convention by Order Council, not by Act of Parliament. This was a mistake. It was ve natural that Mr. White should not have apprehended me correc

when I was describing the somewhat complicated arrangements by which Agreements of this kind are brought into force in England. But two or three days after the 23rd April he called to make inquiry on the subject, and, in reply to his question, the following letter was addressed to him by my instructions:

FOREIGN OFFICE, *April 27, 1888.*

MY DEAR WHITE: Lord Salisbury desires me to express his regret that he is not yet in a position to make any further communication to you on the subject of the seal fisheries in Behring's Sea. After his interview with you and M. de Staal he had to refer to the Canadian Government, the Board of Trade, and the Admiralty, but has as yet only obtained the opinion of the Admiralty. The next step is to bring a Bill into Parliament.

Yours, &c.

(Signed) ERIC BARRINGTON.

On the 28th Mr. White replied:

LEGATION OF THE UNITED STATES,
London, April 28, 1888.

MY DEAR BARRINGTON: Thanks for your note, respecting the final sentence of which, "The next step is to bring a Bill into Parliament," I must trouble you with a line.

I understood Lord Salisbury to say when I saw him with M. de Staal, and again last week alone, that it is now proposed to give effect to the Conventional arrangement for the protection of seals by an Order in Council, not by Act of Parliament.

When Mr. Phelps left, the latter was thought necessary, and last week I received a telegram from the Secretary of State, asking me obtain confidentially a copy of the proposed Act of Parliament, with a view to assimilating our contemplated Act of Congress thereto. I replied, after seeing Lord Salisbury last Saturday, that there would be no Bill introduced in Parliament, but an Order in Council.

May I ask if this be now incorrect, as, in that event, I should particularly like to correct my former statement by this day's mail.

To this the following reply was on the same date addressed to Mr. White:

FOREIGN OFFICE, *April 28, 1888.*

MY DEAR WHITE: Lord Salisbury is afraid that he did not make himself understood when last he spoke to you about the Seal Fisheries Convention.

An Act of Parliament is necessary to give power to our authorities to act on the provisions of the Convention when it is signed. The Order in Council will be merely the machinery which the Act will provide for the purpose of bringing its provisions into force. The object of this machinery is to enable the Government to wait till the other two Powers are ready. But neither Convention nor Bill is drafted yet, because we have not got the opinions from Canada which are necessary to enable us to proceed.

Yours, &c.

(Signed) ERIC BARRINGTON.

It is evident from this correspondence that if the United States Government was misled upon the 23rd April into the belief that Her Majesty's Government could proceed in the matter without an Act of Parliament, or could proceed without previous reference to Canada, it was a mistake which must have been entirely dissipated by the correspondence which followed in the ensuing week.

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Mr. Blaine is also under a misconception in imagining that I ever gave any verbal assurance, or any promise of any kind, with respect to the terms of the projected Convention. Her Majesty's Government always have been, and are still, anxious for the arrangement of a Convention which shall provide whatever close time in whatever localities is necessary for the preservation of the fur-seal species. But I have always represented that the details must be the subject of discussion, a discussion to which those who are locally interested must of necessity contribute. I find the record of the following conversation about the date to which Mr. Blaine refers:

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *March 17,*

SIR: Since forwarding to you my despatch of the 22nd ultimo, I have l communication with the Russian Ambassador at this Court, and have invi Excellency to ascertain whether his Government would authorize him to with Mr. Phelps and myself the suggestion made by Mr. Bayard in his desp the 7th February, that concerted action should be taken by the United State Britain, and other interested Powers, in order to preserve from exterminat fur-seals which at certain seasons are found in Behring's Sea.

Copies of the correspondence on this question which has passed betwee Staal and myself is inclosed herewith.

I request that you will inform Mr. Bayard of the steps which have been with a view to the initiation of negotiations for an Agreement between th Powers principally concerned in the maintenance of the seal fisheries. Bu doing, you should state that this action, on the part of Her Majesty's Gover must not be taken as an admission of the rights of jurisdiction in Behrin exercised there by the United States authorities during the fishing seasons of and 1887-88, nor as affecting the claims which Her Majesty's Government wi to present on account of the wrongful seizures which have taken place of vessels engaged in the seal fishing industry.

I am, &c.

(Signed) SALISB

In pursuance of this despatch, the suggestion made by Mr. B to which I referred was discussed, and negotiations were initiat an Agreement between the three Powers. The following despatc tains the record of what I believe was the first meeting betwee Representatives of the three Powers upon the subject:

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, *April 16,*

SIR: The Russian Ambassador and the United States Chargé d'Affaires calle me this afternoon to discuss the question of the seal fisheries in Behring's Sea, had been brought into prominence by the recent action of the United States.

The United States Government had expressed a desire that some Agreement be arrived at between the three Governments for the purpose of prohibiti slaughter of the seals during the time of breeding; and, at my request, M. d had obtained instructions from his Government on that question.

At this preliminary discussion it was decided *provisionally, in order to fu basis for negotiation, and without definitively pledging our Governments*, that th to be covered by the proposed Convention should be the sea between Amer Russia north of the 47th degree of latitude; that the close time should exte the 15th April to the 1st November; that during that time the slaughter of a should be forbidden, and vessels engaged in it should be liable to seizure cruizers of any of the three Powers, and should be taken to the port of th nationality for condemnation; that the traffic in arms, alcohol, and powder be prohibited in all the islands of those seas; and that, as soon as the three had concluded a Convention, they should join in submitting it for the assent other Maritime Powers of the Northern Seas.

The United States Chargé d'Affaires was exceedingly earnest in pressing the importance of dispatch on account of the inconceivable slaughter t
493 been, and was still, going on in these seas. He stated that in additio vast quantity brought to market, it was a common practice for those e in the trade to shoot all seals they might meet in the open sea, and that of great number sank, so that their skins could not be recovered.

I am, &c.

(Signed) SALISB

It was impossible to state more distinctly that any proposal was provisional, and was merely made for the purpose of enablir requisite negotiations to proceed. The subsequent discussion of proposals was undoubtedly delayed in consequence of the leng time occupied by the Canadian Government in collecting from c erable distances the information which they required before their *ion* on the subject could be thoroughly formed, and after that i

delayed, I believe, chiefly in consequence of the political events in the United States unconnected with this question. I think it desirable to correct the misconceptions which have arisen with respect to these transactions; though I do not think that, even if the view of them which is taken by Mr. Blaine is accurate, they would bear out the argument which he founds upon them.

I shall be glad if you will take the opportunity of informing Mr. Blaine of these corrections.

I am, &c.

(Signed) SALISBURY.

No. 367.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *June 20, 1890.*

SIR: I have received your despatch of the 3rd instant, and I approve the note which you addressed to Mr. Blaine in reply to his inquiry whether Her Majesty's Government would consent to "make for a single season the Regulation," as to the killing of seals in Behring's Sea, "which in 1888 they offered to make permanent."

I am, &c.

(Signed) SALISBURY.

No. 368.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received June 21.*)

[Telegraphic.]

WASHINGTON, *June 21, 1890.*

I have the honour to report to your Lordship that a telegram is published in the "Washington Post" newspaper of to-day, dated Port Townsend, in Washington State, 20th June, stating that the Revenue cutter "Corwin" arrived there on the 18th on its way to Behring's Sea, and will await further orders. In the same telegram it is stated that the "Rush" is at Seattle, in Washington State, and is awaiting orders at that port.

No. 369.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *June 21, 1890.*

SIR: I approve the reply, inclosed in your despatch of the 6th instant, which you returned to Mr. Blaine's note of the 4th instant, in regard to the proposed exclusion of British sealing-vessels from Behring's Sea during the present season.

It is unnecessary, in view of the observations contained in my despatch of the 20th instant, that I should discuss at any length the circumstances which led to an interruption of the negotiations in 1888.

With regard, however, to Mr. Blaine's remarks that in 1888 I had
494 abruptly closed the negotiations because "the Canadian Government objected," and that "I assigned no other reason whatever," I should wish you to call Mr. Blaine's attention to the statement of Mr. Phelps recorded in my despatch to Sir L. West of the 3rd April, 1888, that "under the peculiar political circumstances of America at this moment, with a general election impending, it would be of little use, and, indeed, hardly practicable, to conduct any negotiation to its issue before the election had taken place."

I am, &c.

(Signed) SALISBURY.

No. 370.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 24.)

WASHINGTON, *June 10, 1890.*

MY LORD: With reference to my telegram of to-day, I have the honour to inclose herewith copy of a Memorandum which I gave to Mr. Blaine at our interview of yesterday on the subject of the inability of Her Majesty's Government to exclude British vessels from the high seas without legislative sanction.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 370.]

Memorandum.

Lord Salisbury regrets that the President of the United States should think him wanting in conciliation, but his Lordship cannot refrain from thinking that the President does not appreciate the difficulty arising from the law of England.

It is entirely beyond the power of Her Majesty's Government to exclude British or Canadian ships from any portion of the high seas, even for an hour, without legislative sanction.

Her Majesty's Government have always been willing, without pledging themselves to details on the questions of area and date, to carry on negotiations, hoping thereby to come to some arrangement for such a close season as is necessary in order to preserve the seal species from extinction, but the provisions of such an arrangement would always require legislative sanction, so that the measures thereby determined may be enforced.

Lord Salisbury does not recognize the expressions attributed to him. He does not think that he can have used them, at all events in the context mentioned.

No. 371.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 25.)

[Telegraphic.]

WASHINGTON, *June 25, 1890.*

Although I have not yet received the Secretary of State's promised reply to your Lordship's despatch of the 22nd ultimo, and though he refuses to proceed with the negotiations until that reply is delivered, I am informed that he has announced his intention of leaving for the north in the course of next week.

I therefore venture to suggest that I may be authorized to address at once to Mr. Blaine an official note, replying to the President's inquiry, in the sense of your Lordship's telegram of the 12th instant, viz., that the issue of a Proclamation as proposed by the President involves difficulties of a Constitutional nature, and Her Majesty's Government could only consent to issue it as part of a general settlement, and on the three conditions named below:

1. That the question of the legal right of the United States Government to interfere with British sealing-vessels in Behring's Sea be submitted to arbitration.

2. That, pending the result of the arbitration, the United States Government cease all interference with British sealers outside of territorial waters.

495 3. That, if the result of the arbitration be adverse to the United States Government, British subjects be compensated, not only for past interference, but also for all losses ensuing from their compliance with the Proclamation.

No. 372.

Colonial Office to Foreign Office.—(Received June 26.)

[Extract.]

DOWNING STREET, *June 25, 1890.*

With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding an approved Minute of his Privy Council recommending that an assurance should be sought from the United States that no attempt will be made to interfere with British vessels in Behring's Sea during the present season.

[Inclosure 1 in No. 372.]

Lord Stanley of Preston to Lord Knutsford.

THE CITADEL, *Quebec, June 12, 1890.*

MY LORD: With reference to previous correspondence on the subject of the seizures of Canadian sealing-vessels in Behring's Sea, I have the honour to forward herewith a copy of an approved Minute of the Privy Council, embodying a Report of the Minister of Marine and Fisheries.

The Minister forcibly presents the grievance sustained by Canadian subjects in the course pursued by the United States authorities in regard to this matter, and, in view of the fact that another sealing season has opened without any intimation of a withdrawal, on the part of the United States, of their extraordinary claim to jurisdiction over the waters of the open sea, he recommends that an assurance be sought from the United States Government by Her Majesty's Government that the claim to jurisdiction beyond the 3-mile limit will be no longer insisted on.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 372.]

Report of a Committee of the Honourable the Privy Council, approved by his the Governor-General in Council on the 7th June, 1890.

On a Report, dated the 6th June, 1890, from the Minister of Marine and
expressing regret that it again becomes necessary to call the attention of yo
lency to the long period which has elapsed since the illegal seizures of Britis
vessels by United States Revenue cutters occurred, and to the annual co
of this molestation.

The Minister desires to remind your Excellency that the attention of the
authorities has frequently been called to all the facts and circumstances
with the different seizures which have occurred since 1885, and to observe
withstanding the opinion of the Law Officers of the Crown as to the absen
justification on the part of the United States authorities for the acts comp
and despite the protests of the British Government which were present
Government of the United States, the great wrongs to British subjects
dressed. The Minister would especially point out that as yet there has
withdrawal on the part of the United States authorities of the assertion
right to prevent subjects of Her Majesty from engaging in hunting seals in
waters of Behring's Sea.

The Minister observes that intense embarrassment and financial loss
experienced in connection with the prosecution of this pursuit, due no
actual arrests and molestation, but to intimidation caused by the attitude
on the part of the United States, ever since the year 1885, as regards
496 of sealing in Behring's Sea. As evidence of the strong desire on th
your Excellency's advisers to cordially co-operate with the Imperial
ties in reaching, if possible, a friendly settlement, the Minister recalls the
upon the urgent request of Her Majesty's Government, the Government o
agreed to a discussion of the question of a close season for fur-seals in
ring's Sea, notwithstanding the perpetration of the gross wrongs and inju
plained of by Canada, and in the absence of any definite assurance or offer o

The Minister desires to refer to the Minute of Council approved on the
of March last, dealing at length with a note from the Honourable Mr. Blai
tary of State for the United States, communicating the reply of the Unit
Government to a protest by Mr. Edwardes, on the part of the Imperial Gov
in October last, against the seizure in 1889 of Canadian vessels. After dea
fully with the question, the Minute went on to say:

"Knowing the desire of both Her Majesty's Government and the Canadi
to maintain as friendly relations as possible with the people of the Unit
the Minister recommends that Her Majesty's Government be informed t
Excellency's advisers are prepared to discuss any proposed international
ment for the proper protection of the fur seal, but that before such an
is completed they expect that the question raised by the seizures of Cana
sels in the Behring's Sea shall be settled according to the law of nations,
the claims for indemnity now in the hands of Her Majesty's Government
fully satisfied."

The Minister further observes that while negotiations are in progress tou
question of a close season, another sealing season has begun without any i
of a withdrawal on the part of the United States of their extraordinary
jurisdiction over the waters of the open sea, nor has any indemnification b
or assured to the subjects of Her Majesty who have suffered loss from the ill
on the part of the United States authorities. Indeed, it is currently report
press of the United States and elsewhere that the United States Revenue cu
this year continue to interfere with and harass British sealers when in Behr

The Minister is of opinion that it is at least due to Her Majesty's subje
ested in this branch of industry to have authentic knowledge of the actual p
be taken in connection with Behring's Sea during the coming season by th
ties of the United States, and he, therefore, recommends that Her Majesty'
ment be urged to obtain an immediate assurance that the claim to juris
authority over sealing-vessels when beyond the 3-mile territorial limit in
Sea will be no longer insisted upon.

The Committee, concurring in the above Report of the Minister of Ma
Fisheries, recommend that your Excellency be moved to forward a copy of
ute to the Right Honourable the Principal Secretary of State for the Colon

The Committee further advise that a copy hereof be also forwarded to
Commissioner for Canada in London, with instructions to him to person
upon the Secretary of State for the Colonies the urgent necessity for obtai
the Government of the United States satisfactory assurances upon this sub

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE
Clerk, Privy C

No. 373.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 26, 1890.*

The proposal made in your telegram of yesterday has my entire concurrence.

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497 No. 374.

Sir J. Pauncefote to the Marquis of Salisbury.—(Substance telegraphed, July 3.)

WASHINGTON, *July 1, 1890.*

MY LORD: I have the honour to transmit a copy of a note which I received yesterday evening from Mr. Blaine, in answer to your Lordship's despatch of the 22nd May, of which I left a copy in his hands on the 5th ultimo.

In this note Mr. Blaine endeavours to show that the negotiations which preceded the conclusion of the Treaty of 1824 between the United States and Russia, and the Treaty of 1825 between Great Britain and Russia, had, so far as respects maritime jurisdiction, no reference whatever to the Behring's Sea, but only to the Pacific Ocean south of the Aleutian Islands, and, therefore, that the United States Government have not laid themselves open to the charge of asserting rights in the Behring's Sea which they disputed as against Russia, before the cession of Alaska to the United States in 1867.

While repudiating any claim to the Behring's Sea as a *mare clausum*, Mr. Blaine insists that the claim of Russia to exclusive jurisdiction within 100 miles from land was not disputed as regards the Behring's Sea, but, on the contrary, was acquiesced in both by Great Britain and the United States at the time of the Treaties above referred to, and that it is only since the rights of Russia in Alaska and the Behring's Sea passed to the United States by purchase in 1867 that Great Britain has sought to challenge rights which she respected when Alaska was a Russian province.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 374.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 30, 1890.*

SIR: On the 5th instant you read to me a despatch from Lord Salisbury, dated the 22nd May, and by his instruction you left with me a copy. His Lordship writes in answer to my despatch of the 22nd January last. At that time, writing to yourself touching the current contention between the Governments of the United States and Great Britain as to the jurisdiction of the former over the waters of the Behring's Sea, I made the following statement:

"The Government of the United States has no occasion and no desire to withdraw or modify the positions which it has at any time maintained against the claims of the Imperial Government of Russia. The United States will not withhold from any nation the privileges which it demanded for itself when Alaska was part of the Russian Empire. Nor is the Government of the United States disposed to exercise

any less power or authority than it was willing to concede to the Imperial Government of Russia when its sovereignty extended over the territory in question. The President is persuaded that all friendly nations will concede to the United States the same rights and privileges on the lands and in the waters of Alaska which the same friendly nations always conceded to the Empire of Russia."

In answer to this declaration, Lord Salisbury contends that Mr. John Quincy Adams, when Secretary of State under President Monroe, protested against the jurisdiction which Russia claimed over the waters of the Behring's Sea. To maintain this position his Lordship cites the words of a despatch of Mr. Adams, written on the 23rd July, 1823, to Mr. Henry Middleton, at that time our Minister at St. Petersburgh. The alleged declarations and admissions of Mr. Adams in that despatch have been the basis of all the arguments which Her Majesty's Government have submitted against the ownership of certain properties in the Behring's Sea which the Government of the United States confidently assumes. I quote the portion of Lord Salisbury's argument which includes the quotation from Mr. Adams:

"After Russia, at the instance of the Russian American Fur Company, claimed in 1821 the pursuits of commerce, whaling, and fishing from Behring's Straits to the 51st degree of north latitude, and not only prohibited all foreign vessels from landing on the coasts and islands of the above waters, but also prevented them
498 from approaching within 100 miles thereof, Mr. Quincy Adams wrote as follows to the United States Minister in Russia:

"The United States can admit no part of these claims; their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions."

The quotation which Lord Salisbury makes is unfortunately a most defective, erroneous, and misleading one. The conclusion is separated from the premise, a comma is turned into a period, an important qualification as to time is entirely erased, without even a suggestion that it had ever formed part of the text, and out of eighty-four words, logically and inseparably connected, thirty-five are dropped from Mr. Adams' paragraph in Lord Salisbury's quotation. No edition of Mr. Adams' work gives authority for his Lordship's quotation; while the archives of this Department plainly disclose its many errors. I requote Lord Salisbury's version of what Mr. Adams said, and in juxtaposition produce Mr. Adams' full text as he wrote it.

Lord Salisbury's quotation from Mr. Adams.

"The United States can admit no part of these claims; their right of navigation and fishing is perfect, and has been in constant exercise from the earliest times, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions."

Full text of Mr. Adams' paragraph.

"The United States can admit no part of these claims; their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, *after the peace of 1783*, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions, *which, so far as Russian rights are concerned, are confined to certain islands north of the 55th degree of latitude, and have no existence on the Continent of America.*"

The words in italics are those which are left out of Mr. Adams' paragraph in the despatch of Lord Salisbury. They are precisely the words upon which the Government of the United States founds its argument in this case. Conclusions or inferences resting upon the paragraph, with the material parts of Mr. Adams' text omitted, are of course valueless.

The first object is to ascertain the true meaning of Mr. Adams' words which were omitted by Lord Salisbury. "Russian rights," said Mr. Adams, "are confined to certain islands north of the 55th degree of latitude." The islands referred to are as easily recognized to-day as when Mr. Adams described their situation sixty-seven years ago. The best known among them, both under Russian and American jurisdiction, are Sitka and Kadiak, but their whole number is great. If Mr. Adams literally intended to confine Russian rights to those islands, all the discoveries of Vitus Behring and other great navigators are brushed away by one sweep of his pen, and a large chapter of history is but a fable.

But Mr. Adams goes still further. He declares that "Russian rights have no existence on the Continent of America." If we take the words of Mr. Adams with their literal meaning there was no such thing as "Russian possessions in America," although forty-four years after Mr. Adams wrote these words the United States paid Russia 7,200,000 dollars for these "possessions," and all the rights of land and sea connected therewith.

This construction of Mr. Adams' language cannot be the true one. It would be absurd on its face. The title to that far northern territory was secure to Russia as early as 1741; secure to her against the claims of all other nations; secure to her thirty-seven years before Captain Cook had sailed into the North Pacific; secure to her more than half-a-century before the United States had made good her title to Oregon. Russia was in point of time the first Power in this region by right of discovery. Without immoderate presumption she might have challenged the rights of others to assume territorial possessions, but no nation had shadow of cause or right to challenge her title to the vast region of land and water which, before Mr. Adams was Secretary of State, had become known as the "Russian possessions."

499 Mr. Adams' meaning was not, therefore, and indeed could not be, what Lord Salisbury assumed. As against such interpretation, I shall endeavour to call his Lordship's attention to what this Government holds to be the indisputable meaning of Mr. Adams' entire paragraph. To that end a brief review of certain public transactions and a brief record of certain facts will be necessary.

At the close of the year 1799 the Emperor Paul, by a Ukase, asserted the exclusive authority of Russia over the territory from the Behring's Strait down to the 55th degree of north latitude on the American coast, following westward "by the Aleutian, Kurile, and other islands," practically inclosing the Behring's Sea. To the Russian American Company, which was organized under this Ukase, the Emperor gave the right "to make new discoveries" in that almost unknown region, and "to occupy the new land discovered" as "Russian possessions." The Emperor was assassinated before any new discoveries were announced; but his successor, the Emperor Alexander I, inherited the ambition and the purpose of his father, and by a new Ukase of the 4th September, 1821, asserted the exclusive authority of Russia from Behring's Straits southward to the 51st degree of north latitude on the American coast, proclaiming his authority at the same time on the Asiatic coast as far south as the 45th degree, and forbidding any vessel to approach within 100 miles of land on either continent. I quote the two sections of the Ukase that contain the order and the punishment:

"Section 1. The transaction of commerce and the pursuit of whaling and fishing or any other industry on the islands in the harbours and inlets, and, in general, all along the north-western coast of America from Behring's Strait to the 51st parallel of northern latitude, and likewise on the Aleutian Islands and along the eastern coast of Siberia and on the Kurile Islands, that is from Behring's Strait to the southern promontory of the Island of Urup, viz., as far south as latitude 45° 50′ north, are exclusively reserved to subjects of the Russian Empire.

"Section 2. Accordingly, no foreign vessel shall be allowed either to put to shore at any of the coasts and islands under Russian dominion, as specified in the preceding section, or even to approach the same to within a distance of less than 100 Italian miles. Any vessel contravening this provision shall be subject to confiscation with her whole cargo."

Against *this larger claim of authority* (viz., extending farther south on the American coast to the 51st degree of north latitude) Mr. Adams vigorously protested. In a despatch of the 30th March, 1822, to M. Poletica, the Russian Minister at Washington, Mr. Adams said:

"This Ukase now for the first time extends the claim of Russia on the north-west coast of America to the 51st degree of north latitude."

And he pointed out to the Russian Minister that the only foundation for the new pretension of Russia was the existence of a small Settlement, situated, not on the American Continent, but on a small island in latitude 57°—Novo Archangelsk, now known as Sitka.

Mr. Adams protested, not against the Ukase of Paul, but against the Ukase of Alexander; not wholly against the Ukase of Alexander, but only against his extended claim of sovereignty southward on the continent to the 51st degree north latitude. In short, Mr. Adams protested, not against the old possessions, but against the new pretensions of Russia on the north-west coast of America—pretensions to territory claimed by the United States, and frequented by her mariners since the peace of 1783, a specification of time which is dropped from Lord Salisbury's quotation from Mr. Adams, but which Mr. Adams pointedly used to fix the date when the power of the United States was visibly exercised on the coast of the Pacific Ocean.

The names and phrases at that time in use to describe the geography included within the area of this dispute are confusing, and, at certain points, apparently contradictory and irreconcilable. Mr. Adams' denial to Russia of the ownership of territory on the "Continent of America" is a fair illustration of this singular contradiction of names and places. In the same way the phrase "north-west coast" will be found, beyond all possible doubt, to have been used in two senses: one including the north-west coast of the Russian possessions, and one to describe the coast whose northern limit is the 60th parallel of north latitude.

It is very plain that Mr. Adams' phrase "the Continent of America," in his reference to Russia's possessions, was used in a *territorial* sense, and not in a *geographical* sense; he was drawing the distinction between the territory of "America" and the territory of the "Russian possessions." Mr. Adams did not intend to assert that these territorial rights of Russia had no existence on the Continent of North America.

He meant that they did not exist as the Ukase of the Emperor Alexander had
500 attempted to establish them, southward of the Aleutian Peninsula, and on that distinctive part of the continent claimed as the territory of the United States. "America" and the "United States" were then, as they are now, commonly used as synonymous.

British statesmen at that time used the phrase precisely as Mr. Adams did. The possessions of the Crown were generically termed "British America." Great Britain and the United States harmonized at this point, and on this territorial issue, against Russia. Whatever disputes might be left by these negotiations for subsequent settlement between the two Powers, there can be no doubt that at that time they had a common and very strong interest against the territorial aggrandizement of Russia. The British use of the phrase is clearly seen in the Treaty between Great Britain and Russia negotiated in 1825, and referred to at length in a subsequent portion of this despatch. A publicist as eminent as Stratford Canning opened the IIIrd Article of that Treaty in these descriptive words: "The line of demarcation between the possessions of the High Contracting Parties, upon the coasts of the continent, and the islands of America to the north west." Mr. Canning evidently distinguished "the islands of America" from "the islands of the Russian possessions," which were far more numerous, and by the use of the phrase "to the north-west," just as evidently limited the coast of the continent as Mr. Adams limited it in that direction by the Alaskan Peninsula. A concurrence of opinion between John Quincy Adams and Stratford Canning touching any public question left little room even for suggestion by a third person.

It will be observed, as having weighty significance, that the Russian ownership of the Alentian and Kurile Islands (which border and close in the Behring's Sea, and by the dip of the peninsula are several degrees south of latitude 55°) was not disputed by Mr. Adams, and could not possibly have been referred to by him when he was limiting the "island" possessions of Russia. This is but another evidence that Mr. Adams was making no question as to Russia's ownership of all territory bordering on the Behring's Sea. The contest pertained wholly to the territory on the north-west coast. The Emperor Paul's Ukase, including his sovereignty over the Aleutian and Kurile Islands, was never questioned or denied by any Power at any time.

Many of the acts of Mr. Adams' public life received interesting commentary, and, where there was doubt, luminous interpretation in his personal diary, which was carefully kept from the 3rd June, 1794, to the 1st January, 1848, inclusive. The present case affords a happy illustration of the corroborative strength of the diary. During the progress of this correspondence Baron Tuyl, who had succeeded Poletica as Russian Minister in Washington, called upon Mr. Adams at his office, on the 17th July, 1823, six days before the date of the despatch upon which I have been commenting, and upon which Lord Salisbury relies for sustaining his contention in regard to the Behring's Sea. During an animated conversation of an hour or more between Mr. Adams and Baron Tuyl, the former said:

"I told Baron Tuyl specially that we should contest the right of Russia to any territorial establishment on this continent . . ."

It will be observed that Mr. Adams uses the same phrase in his conversation that has misled English statesmen as to the true scope and meaning of his despatch of the 23rd July, 1823. When he declared that we should "contest the right of Russia to any territorial establishment on this continent" (with the word "any" italicized) he no more meant that we should attempt to drive Russia from her ancient possessions than that we should attempt to drive England from the ownership of Canada or Nova Scotia. Such talk would have been absurd gasconade, and Mr. Adams was the last man to indulge in it. His true meaning, it will be seen, comes out in the next sentence, when he declares:

"I told Baron Tuyl that we should assume distinctly the principle that the American continents are no longer subjects for any *new* European colonial establishments.

In the Message of President Monroe to the next Congress (the eighteenth) at its first Session, the 2nd December, 1823, he announced that, at the proposal of the Russian Government, the United States had agreed to "arrange, by amicable negotiations, the respective rights and interests of the two nations on the north-west coast of this continent." A similar proposal had been made by Russia to Great Britain, and had been likewise agreed to. The negotiations in both cases were to be at St. Petersburgh.

It was in connection with this subject, and in the same paragraph, that President Monroe spoke thus:

"In the discussions to which this interest has given rise, and in the arrangements by which they may terminate, the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that

the American Continents, by the free and independent condition which they have
501 *assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Power.*"

This very brief declaration (in fact, merely the three lines italicized) constitutes the famous "Monroe doctrine." Mr. Adams' words of the July preceding clearly foreshadowed this position as the permanent policy of the United States. The declaration removes the last doubt, if room for doubt had been left, that the reference made by Mr. Adams was to the future, and had no possible connection with the Russian rights existing for three-quarters of a century before the despatch of 1823 was written.

It was evident from the first that the determined attitude of the United States, subsequently supported by Great Britain, would prevent the extension of Russian territory southward to the 51st parallel. The Treaties which were the result of the meeting at St. Petersburgh, already noted, marked the surrender on the part of Russia of this pretension, and the conclusion was a joint Agreement that 50° 40′ should be taken as the extreme southern boundary of Russia on the north-west coast instead of the 55th degree which was proclaimed by the Emperor Paul in the Ukase of 1799. The Treaty between Russia and the United States was concluded on the 17th April, 1824, and that between Russia and Great Britain ten months later, on the 16th February, 1825. In both Treaties Russia acknowledged 54° 40′ as the dividing line. It was not determined which of the two nations owned the territory from 54° 40′ down to the 49th parallel, and it remained in dispute between Great Britain and the United States until its final adjustment by the "Oregon Treaty" negotiated by Mr. Buchanan and Mr. Pakenham under the Administration of Mr. Polk in 1846.

The Government of the United States has steadily maintained that in neither of these Treaties with Russia was there any attempt at regulating or controlling or even asserting an interest in the Russian possessions and the Behring's Sea which lie far to the north and west of the territory which formed the basis of the contention. This conclusion is indisputably proved by the Protocols which were signed during the progress of the negotiation. At the fourth conference of the Plenipotentiaries on the 8th March, 1824, the American Minister, Mr. Henry Middleton, submitted to the Russian Representative, Count Nesselrode, the following:

"The dominion cannot be acquired but by a real occupation and possession, and an intention ('animus') to establish it is by no means sufficient."

Now, it is clear, according to the facts established, that neither Russia nor any other Power has the right of dominion upon the Continent of America between the 50th and 60th degrees of north latitude.

Still less has she the dominion of the adjacent maritime territory, or of the sea which washes these coasts, a dominion which is only accessory to the territorial dominion.

Therefore, she has not the right of exclusion or of admission on these coasts, nor in these seas, which are free seas.

The right of navigating all the free seas belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

The United States have exercised navigation in the seas and commerce upon the coasts above mentioned from the time of their independence; and they have a perfect right to this navigation and to this commerce, and they can only be deprived of it by their own act or a Convention.

This is a clear proof of what is demonstrated in other ways, that the whole dispute between the United States and Russia, and between Great Britain and Russia, related to the north-west coast, as Mr. Middleton expresses it, between the "50th and the 60th degrees of north latitude." This statement is in perfect harmony with Mr. Adams' paragraph when given in full. "The United States," Mr. Middleton insists, "have exercised navigation in the seas and commerce upon the coasts above mentioned from the time of their independence;" but he does not say one word in regard to our possessing any rights of navigation or commerce in the Behring's Sea. He declares that Russia has not the right of exclusion or admission on these coasts (between the 50th and the 60th degrees north latitude) nor in these seas, which are *free* seas, evidently emphasizing "free" to distinguish those seas from the Behring's Sea, which was recognized as being under Russian restrictions.

Mr. Middleton wisely and conclusively maintained that if Russia had no claim to the continent between the 50th and 60th degrees north latitude, "still less could she have the dominion of the adjacent maritime territory," or, to make it more specific, "of the sea which washes these coasts." That sea was the Great Ocean, or the South Sea, or the Pacific Ocean, the three names being equally used for the same thing.

The language of Mr. Middleton plainly shows that the lines of latitude were
502 used simply to indicate the "dominion" on the coast between the 50th and 60th parallels of north latitude.

The important declarations of Mr. Middleton which interpret and enforce the contention of the United States should be regarded as indisputable authority, from the fact that they are but a paraphrase of the instructions which Mr. Adams delivered to him for his guidance in negotiating the Treaty with Count Nesselrode. Beyond all doubt, they prove that Mr. Adams' meaning was the reverse of what Lord Salisbury infers it to be in the paragraph of which he quoted only a part.

The four principal Articles of the Treaty negotiated by Mr. Middleton are as follows:

"Article I. It is agreed that in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles.

"Article II. With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the High Contracting Powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment without the permission of the Governor or Commander; and that, reciprocally, the subjects of Russia shall not resort without permission to any establishment of the United States upon the north-west coast.

"Article III. It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the north-west coast of America, nor in any of the islands adjacent, to the north of 54° 40′ of north latitude; and that in the same manner there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

"Article IV. It is, nevertheless, understood that during a term of ten years, counting from the signature of the present Convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbours, and creeks upon the coast mentioned in the preceding Article, for the purpose of fishing and trading with the natives of the country."

The Ist Article, by carefully mentioning the *Great Ocean*, and describing it as the ocean "commonly called the Pacific Ocean or South Sea," evidently meant to distinguish it from some other body of water with which the negotiators did not wish to confuse it. Mr. Adams used the term "South Sea" in the despatch quoted by Lord Salisbury, and used it with the same discriminating knowledge that pervades his whole argument on this question. If no other body of water existed within the possible scope of the Treaty, such particularity of description would have had no logical meaning. But there was another body of water already known as the Behring's Sea. That name was first given to it in 1817, according to English authority, seven years before the American Treaty, and eight years before the British Treaty with Russia; but it had been known as a *sea*, separate from the ocean, under the names of the Sea of Kamtchatka, the Sea of Otters, or the Aleutian Sea, at different periods before the Emperor Paul issued his Ukase of 1799.

The IInd Article plainly shows that the Treaty is limited to the Great Ocean, as separate from Behring's Sea, because the limitation of the "north-west coast" between the 50th and 60th degrees could apply to no other. That coast, as defined both by American and British negotiators at that time, did not border on the Behring's Sea.

The IIIrd Article shows the compromise as to territorial sovereignty on the north-west coast. The United States and Great Britain had both claimed that Russia's just boundary on the coast terminated at the 60th degree north latitude, the southern border of the Aleutian Peninsula. Russia claimed to the 51st parallel. They made a compromise by a nearly equal division. An exactly equal division would have given Russia 54° 30′; but 10 miles farther north, Prince of Wales' Island, presented a better geographical point for division, and Russia accepted a little less than half the coast of which she had claimed all, and 54° 40′ was thus established as the dividing point.

The IVth Article of the Treaty necessarily grew out of the claims of Russia to a share of the north-west coast in dispute between the United States and Great Britain. Mr. Adams, in the instruction to Mr. Middleton so often referred to, says:

503 "By the IIIrd Article of the Convention between the United States and Great Britain of the 20th October, 1818, it was agreed that any country that might be claimed by either party on the north-west coast of America, westward of the

Stony Mountains, should, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from that date, to the vessels, citizens, and subjects of the two Powers, without prejudice to the claims of either party or of any other State.

"You are authorized to propose an Article of the same purport for a term of ten years from the signature of a joint Convention between the United States, Great Britain, and Russia."

It will be observed that the IVth Article relates solely to the "north-west coast of America," so well understood as the coast of the Pacific Ocean between the 50th and the 60th degrees north latitude, and, therefore, does not in the remotest degree touch the Behring's Sea or the land bordering upon it.

The several Articles in the Treaty between Great Britain and Russia, 16th February, 1825, that could have any bearing on the pending contention are as follows:

Articles I and II. (Substantially the same as in the Treaty between Russia and the United States.)

"Article III. The line of demarcation between the possessions of the High Contracting Parties, upon the coast of the continent, and the Islands of America to the north-west, shall be drawn in the manner following:

"Commencing from the southernmost point of the island called *Prince of Wales'* Island, which point lies in the parallel of 54° 40′ north latitude, and between the 131st and the 133rd degree of west longitude (meridian of Greenwich), the said line shall ascend to the north, along the channel called *Portland Channel* as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude (of the same meridian); and, finally, from the said point of intersection the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British possessions on the Continent of America to the north-west.

Article V. (Substantially the same as Article III of the Treaty between Russia and the United States.)

"Article VI. It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall for ever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the line of coast described in Article III of the present Convention.

"Article VII. It is also understood that, for the space of ten years from the signature of the present Convention, the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in Article III, for the purpose of fishing and of trading with the natives."

After the analysis of the Articles in the American Treaty there is little in the English Treaty that requires explanation. The two Treaties were drafted under circumstances and fitted to conditions quite similar. There were some differences because of Great Britain's ownership of British America. But these very differences corroborate the position of the United States. This is most plainly seen in Article VI. By that Article the subjects of Her Britannic Majesty were guaranteed the right of navigating freely the rivers emptying into the Pacific Ocean and crossing the *line of demarcation upon the line of coast described in Article III.* The line of demarcation is described in Article III as following "the summit of the mountains situated parallel to the coast, *as far as the point of intersection of the 141st degree of west longitude.*" Article IV, qualifying Article III, specifies that "wherever the summit of the mountains which extend in a direction parallel to the coast, from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude, shall prove to be at a distance of more than 10 marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by a line parallel to the windings of the coast, and shall never exceed the distance of 10 marine leagues therefrom."

By both these Articles the line of demarcation ceases to have any parallel relation to the coast when it reaches the point of intersection of the 141st degree of
504 west longitude. From that point the 141st degree of west longitude, as far as it extends continuously on land northward, is taken as the boundary between the territories of the two Powers. It is thus evident that British subjects were guaranteed the right of navigating only such rivers as crossed the line of demarcation *while it followed the line of coast.* They were limited, therefore, to the rivers that emptied into the Pacific Ocean between 54° 40′ and 60° north latitude, the latter being the point on the coast opposite the point where the line of demarcation diverges, Mount St. Elias.

By this Agreement Great Britain was excluded from all rivers emptying into the Behring's Sea, including the Great Yukon and its affluent the Porcupine, which rise, and for a long distance flow, in British America. So complete was the exclusion from Behring's Sea that Great Britain surrendered in this case a doctrine which she had aided in impressing upon the Congress of Vienna for European rivers. She did not demand access to the sea from a river whose source was in her territory. She consented, by signing the Treaty of 1825, to such total exclusion from the Behring's Sea as to forego following her own river to its mouth in that sea.

It shows a curious association of political events that in the Washington Treaty of 1871 the United States conceded to Great Britain the privilege of navigating the Yukon and its branch the Porcupine to the Behring's Sea in exchange for certain privileges conceded to the United States on the St. Lawrence. The request of Great Britain for the privilege of navigating the Yukon and the Porcupine is a suggestive confession that it was withheld from her by Russia in the Treaty of 1825, withheld because the rivers flowed to the Behring's Sea.

The VIIth Article is practically a repetition of the IVth Article in the Treaty between Russia and the United States, and the privilege of fishing and trading with the natives is limited to the coast mentioned in Article III, identically the same line of coast which they were at liberty to pass through to reach British America or to reach the coast from British America. They are excluded from going north of the prescribed point on the coast near Mount St. Elias, and are therefore kept out of Behring's Sea.

It is to be noted that the negotiators of this Treaty in defining the boundary between the Russian and British possessions cease to observe particularity exactly at the point on the coast where it is intersected by the 60th parallel. From that point the boundary is designated by the almost indefinite prolongation northward of the 141st degree of longitude west. It is plain, therefore, that this Treaty, like the Russo-American Treaty, limited the "north-west coast" to that part of the coast between the 50th and 60th parallels of north latitude, as fully set forth by Mr. Middleton in the Protocols preceding the Treaty between the United States and Russia. The negotiators never touched one foot of the boundary of the Behring's Sea, whether on continent or island, and never even made a reference to it. Its nearest point in Bristol Bay was 1,000 miles distant from the field of negotiation between the Powers.

It must not be forgotten that this entire negotiation of the three Powers proceeded with full knowledge and recognition of the Ukase of 1821. While all questions touching the respective rights of the Powers on the north-west coast between the 50th and 60th parallels were discussed and pressed by one side or the other, and finally agreed upon, the terms of the Ukase of 1821, in which the Emperor set forth so clearly the rights claimed and exercised by Russia in the Behring's Sea, were untouched and unquestioned. These rights were therefore admitted by all the Powers negotiating as within the exercise of Russia's lawful authority then, and they were left inviolate by England during all the subsequent continuance of Russia's dominion over Alaska.

These Treaties were therefore a practical renunciation, both on the part of England and the United States, of any rights in the waters of Behring's Sea during the period of Russia's sovereignty. They left the Behring's Sea, and all its coasts and islands precisely as the Ukase of Alexander in 1821 left them—that is, with the prohibition against any vessel approaching nearer to the coast than 100 Italian miles under danger of confiscation. The original Ukase of Alexander of 1821 claimed as far south as the 51st degree of north latitude, with the inhibition of 100 miles from the coast applying to the whole.

The result of the protest of Mr. Adams, followed by the co-operation of Great Britain, was to force Russia back to 54° 40′ as her southern boundary. But there was no renunciation whatever on the part of Russia as to the Behring's Sea, to which the Ukase especially and primarily applied. As a piece of legislation this Ukase was as authoritative in the dominions of Russia as an Act of Parliament is in the dominions of Great Britain or any Act of Congress in the territory of the United States.

Except as voluntarily modified by Russia in the Treaty with the United States 17th April, 1824, and in the Treaty with Great Britain, 16th February, 1825
505 the Ukase of 1821 stood as the law controlling the Russian possessions in America until the close of Russia's ownership by transfer to this Government. Both the United States and Great Britain recognized it, respected it, obeyed it. It did not, as so many suppose, declare the Behring's Sea to be *mare clausum*. It did declare that the waters, to the extent of 100 miles from the shore, were reserved for the subjects of the Russian Empire. Of course, many hundred miles east and west and north and south were thus intentionally left by Russia for the whale fishery, and for fishing open and free to the world, of which other nations took large advantage. Perhaps, in pursuing this advantage, foreigners did not always keep 100 miles from the shore; but the theory of right on which they conducted their business unmolested was that they observed the conditions of the Ukase.

ıe 100-mile restriction performed the function for which it was specially
. in preventing foreign nations from molesting, disturbing, or by any possi-
aring in the fur trade. The fur trade formed the principal, almost the sole,
ient of the Russian American Company. It formed its employment, indeed,
ı degree that it soon became known only as the Russian American *Fur* Com-
d quite suggestively that name is given to the Company by Lord Salisbury
espatch to which I am replying. While, therefore, there may have been a
ount of lawful whaling and fishing in the Behring's Sea, the taking of furs
gners was always and under all circumstances illicit.
en years after the Treaty of 1825 (in 1843) Great Britain made a Commercial
ith Russia based on the principle of reciprocity of advantages, but the rights
ussian American Company, which under both Ukases included the sover-
er the sea to the extent of 100 miles from the shores, were reserved by special
a separate and special Article signed after the principal Articles of the
ad been concluded and signed. Although British rights were enlarged with
ll other parts of the Russian Empire, her relations with the Russian posses-
l with the Behring's Sea remained at precisely the same point where the
f 1825 had placed them.
in 1859, Great Britain still further enlarged her commercial relations with
eror of Russia, and again the "possessions" and the Behring's Sea were held
their relations to the Russian American Company as they had been held in
ty of 1843.
pecially notable that, both in the Treaty of 1843 and the Treaty of 1859, it
ed that "in regard to commerce and navigation in the Russian possessions
orth-west coast of America the Convention concluded at St. Petersburgh,
ruary, 1825, shall continue in force." The same distinction and the same
ons which Mr. Adams made in regard to the north-west coast of America
ll observed, and Great Britain's access from or to the interior of the conti-
s still limited to that part of the coast between 54° 40′ and a point near
t. Elias. The language of the three Russo-British Treaties of 1825, 1843, and
responds with that employed in Mr. Adams' despatch to Mr. Middleton to
ference has so frequently been made. This shows that the true meaning of
ms' paragraph is the key, and indeed the only key, by which the Treaties
orrectly interpreted, and by which expressions apparently contradictory or
gible can be readily harmonized.
iately following the partial quotation of Mr. Adams' despatch, Lord Salis-
otes the case of the United States brig "Loriot" as having some bearing on
tion relating to the Behring's Sea. The case happened on the 15th Septem-
, and Mr. Forsyth, Secretary of State, in a despatch to the United States
at St. Petersburgh, declared the course of the Russians in arresting the
be a violation of the rights of the citizens of the United States; he claimed
citizens of the United States had the right immemorially, as well as by the
ons of the Treaty of 1824, to fish in those waters.
alisbury's understanding of the case differs entirely from that held by the
ient of the United States. The "Loriot" was not arrested in the Behring's
l, nor was she engaged in taking furs. She was arrested, as Mr. Forsyth
espatch says, in latitude 54° 55′, more than 60 miles south of Sitka, on the
west coast," to which, and to which only, the Treaty of 1824 referred. Russia
ts action on the ground that the ten-year term provided in the IVth Article
reaty had closed two years before. The case was made the basis of an appli-
n the part of the United States Government for a renewal of that Article.
plication was pressed for several years, but finally and absolutely refused by
ian Government. Under the claim of Russia that the term of ten years had
pired, the United States failed to secure any redress in the "Loriot" case.
ith all due respect to Lord Salisbury's judgment, the case of the "Loriot"
stains the entire correctness of the position of the United States in this
on.
remains to say that whatever duty Great Britain owed to Alaska as a Rus-
vince, whatever she agreed to do, or to refrain from doing, touching Alaska
Behring's Sea, was not changed by the mere fact of the transfer of sover-
o the United States. It was explicitly declared in the VIth Article of the
y which the territory was ceded by Russia, that "the cession hereby made
all the rights, franchises, and privileges now belonging to Russia in the
ritory or dominions, and appurtenances thereto." Neither by the Treaty
ssia of 1825, nor by its renewal in 1843, nor by its second renewal in 1859, did
ritain gain any right to take seals in Behring's Sea. In fact, those Treaties
prohibition upon her which she steadily respected so long as Alaska was a
province. It is for Great Britain now to show by what law she gained rights
ea after the transfer of its sovereignty to the United States.
g all the time elapsing between the Treaty of 1825 and the cession of Alaska
nited States in 1867, Great Britain never affirmed the right of her subjects

to capture fur-seal in the Behring's Sea; and, as a matter of fact, her subjects did not during that long period attempt to catch seals in the Behring's Sea. Lord Salisbury, in replying to my assertion that these lawless intrusions upon the fur-seal fisheries began in 1886, declares that they had occurred before. He points out one attempt in 1870, in which forty-seven skins were found on board an intruding vessel; in 1872 there was a rumour that expeditions were about to fit out in Australia and Victoria for the purpose of taking seal in the Behring's Sea; in 1874 some reports were heard that vessels had entered the sea for that purpose; one case was reported in 1875, two cases in 1884, two also in 1885.

These cases, I may say, without intending disrespect to his Lordship, prove the truth of the statement which he endeavours to controvert; because they form just a sufficient number of exceptions to establish the fact that the destructive intrusion began in 1886. But I refer to them now for the purpose of showing that his Lordship does not attempt to cite the intrusion of a single British sealer into the Behring's Sea until after Alaska had been transferred to the United States. I am justified, therefore, in repeating the questions I addressed to Her Majesty's Government on the 22nd of last January, and which still remain unanswered, viz.:

"Whence did the ships of Canada derive the right to do in 1886 that which they had refrained from doing for nearly ninety years?

"Upon what grounds did Her Majesty's Government defend in the year 1886 a course of conduct in the Behring's Sea which had been carefully avoided ever since the discovery of that sea?

"By what reasoning did Her Majesty's Government conclude that an act may be committed with impunity against the rights of the United States which had never been attempted against the same rights when held by the Russian Empire?"

I have, &c.

(Signed) JAMES G. BLAINE.

No. 375.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 3.)

[Telegraphic.]

WASHINGTON, *July 3, 1890.*

I had a long interview with Mr. Blaine yesterday. He said that h health necessitated his departure, and that he had decided to leave f Bar Harbour to-day.

Alluding to the Behring's Sea question, he said that it was too la now to make any arrangement which would affect the present fishe season, but that he was prepared to continue the negotiations with m from Bar Harbour, as I should probably soon be in the neighbourhoo

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No. 376.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 7.)

WASHINGTON, *June 18, 1890.*

MY LORD: I have the honour to report that on Saturday, the 14 instant, as instructed in your Lordship's telegram of the 1 507 instant, I addressed to the United States Secretary of State Protest against any further interference with British sealers Behring's Sea, the draft of which was inclosed in your Lordsh despatch of the 29th ultimo.

I have the honour to inclose herewith copy of the Protest as de ered, together with copy of the covering note to Mr. Blaine.

I have, &c.

(Signed) JULIAN PAUNCEFOTE

[Inclosure 1 in No. 376.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *June 14, 1890.*

SIR: With reference to the note which I had the honour to address to you on the 11th instant, I desire to express to you my deep regret at having failed up to the present time to obtain from you the assurance which I had hoped to receive, that during the continuance of our negotiations for the settlement of the Fur-seal Fishery question, British sealing-vessels would not be interfered with by United States Revenue cruizers on the Behring's Sea outside of territorial waters.

Having learnt from statements in the public press and from other sources that the Revenue-cruizers "Rush" and "Corwin" are now about to be dispatched to the Behring's Sea, I cannot, consistently with the instructions I have received from my Government, any longer defer the communication of their formal Protest, announced in my notes of the 23rd ultimo and the 11th instant, against any such interference with British vessels. I have accordingly the honour to transmit the same herewith.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 2 in No. 376.]

Protest.

The Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, has the honour, by instructions of his Government, to make to the Honourable J. G. Blaine, Secretary of State of the United States, the following communication:

Her Britannic Majesty's Government have learnt with great concern, from notices which have appeared in the press, and the general accuracy of which has been confirmed by Mr. Blaine's statements to the Undersigned, that the Government of the United States have issued instructions to their Revenue cruizers about to be dispatched to Behring's Sea, under which the vessels of British subjects will again be exposed, in the prosecution of their legitimate industry on the high seas, to unlawful interference at the hands of American officers.

Her Britannic Majesty's Government are anxious to co-operate to the fullest extent of their power with the Government of the United States in such measures as may be found to be expedient for the protection of the seal fisheries. They are at the present moment engaged in examining, in concert with the Government of the United States, the best method of arriving at an agreement upon this point. But they cannot admit the right of the United States of their own sole motion to restrict for this purpose the freedom of Behring's Sea, which the United States have themselves in former years convincingly and successfully vindicated, nor to enforce their municipal legislation against British vessels on the high seas beyond the limits of their territorial jurisdiction.

Her Britannic Majesty's Government are therefore unable to pass over without notice the public announcement of an intention on the part of the Government of the United States to renew the acts of interference with British vessels navigating outside the territorial waters of the United States, of which they have previously had to complain.

The Undersigned is in consequence instructed formally to protest against such interference, and to declare that Her Britannic Majesty's Government must hold
508 the Government of the United States responsible for the consequences which may ensue from acts which are contrary to the principles of international law.

The Undersigned has the honour to renew to Mr. Blaine the assurances of his highest consideration.

(Signed) JULIAN PAUNCEFOTE.

No. 377.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 7.)

WASHINGTON, *June 27, 1890.*

MY LORD: I have the honour to transmit herewith a remarkable article on the subject of the Behring's Sea negotiations which appeared in the "New York Herald" of yesterday.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 377.]

Extract from the "New York Herald" of June 26, 1890.

[From our regular Correspondent.]

"HERALD" BUREAU, CORNER OF FIFTEENTH AND G STREETS, N.W.,
Washington, June 25, 1890.

The story of a recent interference by the President with the conduct and progress of the Behring's Sea negotiations has been circulating confidentially in Washington for several weeks. Its publication now, after the interposition of the President had ceased and the mischief threatened by it had passed away, is regarded in some quarters as a counter-attack on Mr. Blaine for his alleged Tariff heresy.

The following is a plain statement of the facts of the Behring's Sea episode, obtained from an authoritative source. It shows that, as soon as the President saw the consequences of his well-meant intention, and that he had separated himself in some degree from Mr. Blaine, he hastened to reunite himself to the Secretary and to strengthen the latter's position to the fullest extent as against adverse influences in the Administration.

Steps in Diplomacy.

The oral discussion of the Behring's Sea question began between Secretary Blaine and Minister Pauncefote last January. The Secretary advanced and the Minister combated the claim of a territorial jurisdiction by the United States over all that part of Behring's Sea lying east and south of the boundary-line drawing through Behring's Strait and across the sea by the Treaty with Russia for the cession of Alaska to this country. Without coming to a head the discussion was laid aside by mutual consent and without prejudice to the position of either party, for the reason that the British Representative admitted that his Government was not only willing, but desirous, on grounds of good neighbourhood and of a mutual interest, to enter into an arrangement that would efficiently protect the seals resorting to Behring's Sea from injurious molestation or slaughter.

As these were the very and the only objects for which the United States Government was desirous to establish its claim to a territorial jurisdiction in the waters of the sea, it was agreed to shift the discussion to the project of an international regulation of seal-catching wherein a prohibition of marine sealing during the annual breeding season should form a leading position. Russia, being a necessary party to such an arrangement, and having an identical interest with that of the United States as the owner of seal-rookeries in Behring's Sea, was invited to take part in the new discussion, and did so through its Resident Envoy at Washington.

Mr. Blaine, however, was not satisfied to rest wholly upon the British assurance that England was even something more than willing to assist the United States
509 in taking due care of its seal property. In preparing for his friendly and informal conferences with the British Minister he had taken, upon his notes, a suggestion to draw into discussion the question, in view of the peculiar habits of the fur-seal (which though nomadic during part of each year returned regularly and for a considerable period to its home within the United States), whether this Government might not lay claim to a right to extend a reasonable protection to the animal during its various movements in the waters surrounding its rookeries.

This discussion he pressed upon the Minister, relying upon the well-established English doctrine of the "intention to return" to offset the legal argument that property in animals of a wild nature is limited to the period of possession. This second and independent claim to a police jurisdiction in Behring's Sea is still pending, and the arguments on both sides of it have been fully and formally stated, with the help of competent lawyers, and made matter of record, should it ever become necessary to revert to the claim.

A Close Season.

Up to the stage above indicated the negotiations had proceeded without obstruction. Not till the Plenipotentiaries came together to settle principal details of the agreed International Regulations did it appear that while the United States contemplated a close season in Behring's Sea covering the whole period of six months or more during which the seals were moving into and out of the sea and were reposing at the rookeries, Great Britain proposed simply such arrangements as would reasonably guard against an excessive catching of female seals, by which the perpetuity of the herd would be endangered. In lieu of a single and continuous close season, covering the whole time of the yearly presence of the seals in Behring's Sea, which was the project of the United States, the British proposal was of two short periods of closure, one during the inward and another during the outward movement of the seals, supplemented by a broad belt of isolation around the rookeries, which no *sealing*-vessel was to penetrate.

Mr. Blaine was confident that the Senate of the United States would not ratify such a Convention as the British Plenipotentiary proposed, nor Congress enact the legislation necessary to give it effect. Sir Julian was equally sure that neither the British nor the Canadian Parliament would legislate upon the broad lines laid down by Mr. Blaine. Still both Plenipotentiaries were agreed upon the principle that there should be an effective regulation of the sealing industry, to be attained by mutual co-operation. The Russian proposition accorded with that of the United States, but the Russian Minister left it to our Government, as the larger proprietor of rookeries, to act for both.

The real trouble lay in the statements and opinions of experts, upon which both negotiants necessarily had to rely. To settle the defects and conflicts of this so-called evidence, and to produce a satisfactory basis for a Convention and the legislation necessitated by it, a proposal was moved from the British side to assemble a Joint Technical Commission to examine, decide, and report what was actually necessary to carry out the well-settled intention of the parties. After a very careful and deliberate consideration of this proposal, in which the main question was studied in every possible aspect, Mr. Blaine gave his adhesion to it.

At this point the new lessees of the Alaskan Seal Islands intervened. They were not willing to put at issue, in any manner of form, the question whether there should be any marine sealing in Behring's Sea, however restricted. To make a long story short, they prevailed, but not at the State Department. The control of the negotiations was taken from Mr. Blaine, and he was only permitted, as the organ of the Government, to reject the *modus vivendi* proposed by the British Government to carry the parties safely through the sealing season then close at hand, and report what he could learn or guess of the probable action or disposition of Lord Salisbury. The project of a Technical Commission was dropped clean out of sight.

Ordered to use Force.

The Revenue cutters were ordered to Behring's Sea, there to enforce within disputed waters the full vigour of a Law passed with a view to waters not in dispute, and the extension of which Law to the waters in dispute Congress had shrunk from as lately as 1889, when the question of such an extension was squarely presented by a Bill which went into Conference and became a Law. Inquirers at the Treasury Department were informed that the sailing orders to the cutters meant all they said;
that no secret or supplementary orders would issue in favour of British ves-
510 sels, and that any such vessel sealing in Behring's Sea would be seized, relieved of its lading and papers, and be dismantled.

Mr. Blaine knew that the original question at issue had broadened into the larger one of an exercise of the right of search in time of peace upon what, with considerable force of argument and weight of authority, was claimed to be a part of the high seas, and without the consent of the friendly Power whose vessels were to be subjected to an indignity which the United States had once to gone to war to resent. What he knew the new conductors of the negotiations knew necessarily. But they scouted the idea that England would do more than protest, and they were not afraid of protestation.

England protests.

All at once it became known that Lord Salisbury meant to do the very thing he was expected not to do, and to protect by force, if necessary, British vessels and subjects in Behring's Sea. The situation was hastily reviewed, and the conclusion reached that, upon the record of the case as made since January last, the Government could not afford to go before the world, nor even before the press and people of the United States, with a defence of its contemplated policy of violence.

The Revenue cutters were stopped at Puget Sound to await further orders. The negotiations were restored to the charge of the Secretary of State, who improvised a proposal designed to cover a retreat not necessitated by himself and to put the question back to a normal and proper situation.

There will be no trouble in Behring's Sea. The claims of the United States have been preserved in full vigour, and before the opening of another sealing season a settlement will be reached honourable and advantageous to the United States.

Arbitration expected.

It is expected that within the next ten or twelve days the negotiations will be so far advanced that new sailing orders may be issued to the "Rush" and "Corwin," which vessels will then resume their interrupted voyage to Behring's Sea, there to perform all the duties required by law, but not to exercise a disputed jurisdiction which it is the expectation of the Government to submit to the determination of

some disinterested Power or Sovereign, possibly Pope Leo XIII, as intimated many months ago in these despatches.

Mr. Blaine gave it as an excuse that he could not visit Chicago this week, when pressed to do so, because of the importance of the Behring's Sea negotiations now favourably progressing, as he said.

No. 378.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 7.)

WASHINGTON, *June 27, 1890.*

MY LORD: I have the honour to transmit copy of a note which I addressed to Mr. Blaine immediately upon the receipt of your Lordship's telegram of the 26th instant.

I trust that it will meet with your Lordship's approval.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 378.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *June 27, 1890.*

SIR: I did not fail to transmit to the Marquis of Salisbury a copy of your note of the 11th instant, in which, with reference to his Lordship's statement, that British legislation would be necessary to enable Her Majesty's Government to exclude British vessels from any portion of the high seas, "even for an hour," you informed me, by desire of the President, that the United States Government would be satisfied "if Lord Salisbury would, by public Proclamation, simply request that vessels sailing under the British flag should abstain from entering the Behring's Sea during the present season."

I have now the honour to inform you that I have been instructed by Lord
511 Salisbury to state to you, in reply, that the President's request presents constitutional difficulties which would preclude Her Majesty's Government from acceding to it, except as part of a general scheme for the settlement of the Behring's Sea controversy, and on certain conditions which would justify the assumption by Her Majesty's Government of the grave responsibility involved in the proposal.

Those conditions are:

1. That the two Governments agree forthwith to refer to arbitration the question of the legality of the action of the United States Government in seizing or otherwise interfering with British vessels engaged in the Behring's Sea, outside of territorial waters, during the years 1886, 1887, and 1889.

2. That, pending the award, all interference with British sealing-vessels shall absolutely cease.

3. That the United States Government, if the award should be adverse to them on the question of legal right, will compensate British subjects for the losses which they may sustain by reason of their compliance with the British Proclamation.

Such are the three conditions on which it is indispensable, in the view of Her Majesty's Government, that the issue of the proposed Proclamation should be based.

As regards the compensation claimed by Her Majesty's Government for the losses and injuries sustained by British subjects by reason of the action of the United States Government against British sealing-vessels in the Behring's Sea during the years 1886, 1887, and 1889, I have already informed Lord Salisbury of your assurance that the United States Government would not let that claim stand in the way of an amicable adjustment of the controversy, and I trust that the reply which, by direction of Lord Salisbury, I have now the honour to return to the President's inquiry, may facilitate the attainment of that object, for which we have so long and so earnestly laboured.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 379.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 9.)

[Telegraphic.]

WASHINGTON, *July 9, 1890.*

In the House of Representatives to-day, on the motion of Mr. Hitt, the Chairman of the House Committee on Foreign Affairs, a Resolution was adopted, "That the President be requested to furnish the House with the correspondence between the Government of the United States and the Government of Great Britain touching the subjects in dispute in the Behring's Sea since the 4th March, 1889."

No. 380.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *July 10, 1890.*

SIR: I approve the note addressed by you to Mr. Blaine on the subject of the issue of a Proclamation requesting British vessels to abstain from entering the Behring's Sea during the present sealing season, of which a copy was inclosed in your despatch of the 27th ultimo.

I am, &c.

(Signed) SALISBURY.

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No. 381.

The Marquis of Salisbury to Sir. J. Pauncefote.

FOREIGN OFFICE, *July 10, 1890.*

SIR: I approve the terms of the note in which you forwarded to Mr. Blaine the protest of Her Majesty's Government against any further interference with British sealers in Behring's Sea, as reported in your despatch of the 18th ultimo.

I am, &c.

(Signed) SALISBURY.

No. 382.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *August 2, 1890.*

SIR: I have received and laid before the Queen your despatch of the 1st ultimo, forwarding a copy of a note from Mr. Blaine, in which he maintains that the United States have derived from Russia rights of jurisdiction over the waters of Behring's Sea to a distance of 100 miles from the coasts transferred to them under the Treaty of the 30th March, 1867.

In replying to the arguments to the contrary effect contained in my despatch of the 22nd May, Mr. Blaine draws attention to certain expressions which I had omitted for the sake of brevity in quoting

from Mr. Adams' despatch of the 22nd July, 1823. He contends that these words give a different meaning to the despatch, and that the latter does not refute, but actually supports, the present claim of the United States. It becomes necessary, therefore, that I should refer in greater detail to the correspondence, an examination of which will show that the passage in question can not have the signification which Mr. Blaine seeks to give to it, that the words omitted by me do not in reality affect the point at issue, and that the view which he takes of the attitude both of Great Britain and of the United States towards the claim put forward by Russia in 1822 cannot be reconciled with the tenour of the despatches.

It appears from the published papers that in 1799 the Emperor Paul I granted by Charter to the Russian American Company the exclusive right of hunting, trade, industries, and discoveries of new land on the northwest coast of America from Behring's Strait to the 55th degree of north latitude, with permission to the Company to extend their discoveries to the south and to form establishments there, provided they did not encroach upon the territory occupied by other Powers.

The southern limit thus provisionally assigned to the Company corresponds, within 20 or 30 miles, with that which was eventually agreed upon as the boundary between the British and Russian possessions. It comprises not only the whole American coast of Behring's Sea, but a long reach of coast-line to the south of the Alaskan Peninsula as far as the level of the southern portion of Prince of Wales' Island.

The Charter, which was issued at a time of great European excitement, attracted apparently little attention at the moment, and gave rise to no remonstrance. It made no claim to exclusive jurisdiction over the sea, nor do any measures appear to have been taken under it to restrict the commerce, navigation, or fishery of the subjects of foreign nations. But in September 1821 the Russian Government issued a fresh Ukase, of which the provisions material to the present discussion were as follows:

Section 1. The pursuits of commerce, whaling, and fishing, and of all other industry, on all islands, ports, and gulfs, including the whole of the north-west coast of America, beginning from Behring's Strait to the 51st degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring's Strait to the south cape of the Island of Urup, viz., to 45° 50′ northern latitude, are exclusively granted to Russian subjects.

Sec. 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo.

By this Ukase the exclusive dominion claimed by Russia on the American Continent was pushed some 250 miles to the south as
513 far as Vancouver Island, and notice was for the first time given of a claim to maritime jurisdiction which was regarded both in England and the United States as extravagant, or, to use Lord Stowell's description of it, "very unmeasured and insupportable."

Upon receiving communication of the Ukase, the British and United States Governments at once objected both to the extension of the territorial claim and to the assertion of maritime jurisdiction. For the present, I will refer only to the protest of the United States Government. This was made in a note from Mr. John Quincy Adams, then Secretary of State, to the Russian Representative, dated the 25th February, 1822, which contains the following statement:

I am directed by the President of the United States to inform you that he has seen with surprise in this Edict the assertion of a territorial claim on the part of Russia

extending to the 51st degree of north latitude on this continent, and a regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within 100 Italian miles of the shores to which that claim is made to apply. The relations of the United States with His Imperial Majesty have always been of the most friendly character, and it is the earnest desire of this Government to preserve them in that state. It was expected, before any act which should define the boundary between the territories of the United States and Russia on this continent, that the same would have been arranged by Treaty between the parties. To exclude the vessels of our citizens from the shore, beyond the ordinary distance to which the territorial jurisdiction extends, has excited still greater surprise.

This Ordinance affects so deeply the rights of the United States and of their citizens that I am instructed to inquire whether you are authorized to give explanations of the grounds of right, upon principles generally recognized by the laws and usages of nations, which can warrant the claims and regulations contained in it.

The Russian Representative replied at length, defending the territorial claim on grounds of discovery, first occupation, and undisturbed possession, and explaining the motive "which determined the Imperial Government to prohibit foreign vessels from approaching the north-west coasts of America belonging to Russia, within the distance of at least 100 Italian miles. This measure," he said, "however severe it may at first view appear, is after all but a measure of prevention." He went on to say that it was adopted in order to put a stop to an illicit trade in arms and ammunition with the natives, against which the Russian Government had frequently remonstrated; and further on he observed:

I ought, in the last place, to request you to consider, Sir, that the Russian possessions in the Pacific Ocean extend, on the north-west coast of America, from Behring's Strait to the 51st degree of north latitude, and on the opposite side of Asia and the islands adjacent, from the same strait to the 45th degree, the extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to *shut seas* ('mers fermées'), and the Russian Government might, consequently, judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities.

To this Mr. Adams replied (30th March, 1822), pointing out that the only ground given for the extension of the Russian territorial claim was the establishment of a settlement, not upon the continent, but upon a small island, actually within the limits prescribed to the Russian American Company in 1799, and he went on to say:

This pretension is to be considered not only with reference to the question of territorial right, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts. From the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and the right to navigate them is a part of that independence.

With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea, in latitue 51° north, is not less than 90 degrees of longitude, or 4,000 miles.

The Russian Representative replied to this note, endeavouring to prove that the territorial rights of Russia on the north-west coast of America were not confined to the limits of the Concession granted to the Russian American Company in 1799, and arguing that the great extent of the Pacific Ocean at the 51st degree of latitude did not invalidate the right which Russia might have to consider that part of the ocean as closed. But he added that further discussion of this point was unnecessary, as the Imperial Government had not thought fit to take advantage of that right.

The correspondence then dropped for a time, to be resumed in the following spring. But it is perfectly clear from the above that the
514 privileges granted to the Russian American Company in 1799, whatever effect they may have had as regards other Russian subjects, did not operate to exclude American vessels from any part of the coast, and that the attempt to exclude them in 1821 was at once resisted. Further, that the Russian Government had no idea of any distinction between Behring's Sea and the Pacific Ocean, which latter they considered as reaching southward from Behring's Straits. Nor throughout the whole of the subsequent correspondence is there any reference whatever on either side to any distinctive name for Behring's Sea, or any intimation that it could be considered otherwise than as forming an integral part of the Pacific Ocean.

I now come to the despatch from Mr. Adams to Mr. Middleton of the 22nd July, 1823, to which reference has before been made, and which it will be necessary to quote somewhat at length. After authorizing Mr. Middleton to enter upon a negotiation with the Russian Ministers concerning the differences which had arisen from the Ukase of the 4th (16th) September, 1821, Mr. Adams continues:

> From the tenour of the Ukase, the pretensions of the Imperial Government extend to an exclusive territorial jurisdiction from the 45th degree of north latitude, on the Asiatic coast, to the latitude of 51° north on the western coast of the American Continent; and they assume the right of interdicting the navigation and the fishery of all other nations to the extent of 100 miles from the whole of that coast.
>
> The United States can admit no part of these claims. Their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, after the peace of 1783, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions, which, so far as Russian rights are concerned, are confined to certain islands north of the 55th degree of latitude, and have no existence on the continent of America.

Mr. Blaine has argued at great length to show that when Mr. Adams used these clear and forcible expressions he did not mean what he seemed to say; that when he stated that the United States "could admit no part of these claims," he meant that they admitted all that part of them which related to the coast north of the Aleutian Islands; that when he spoke of the Southern Ocean, he meant to except Behring's Sea; and that when he contended that the ordinary exceptions and exclusions of the territorial jurisdictions had no existence, so far as Russian rights were concerned, on the Continent of America, he used the latter term not in a geographical but in a "territorial" sense, and tacitly excepted, by a very singular *petitio principii*, the Russian possessions. In order to carry out this theory, it is necessary for him also to assume that the negotiators in the course of the discussions made indiscriminate use of the term "north-west coast of America," with a variety of signification which he admits to be "confusing, and, at certain points, apparently contradictory and irreconcilable."

The reputation of the American statesmen and diplomatists of that day for caution and precision affords of itself strong argument against such a view, and, even if this had been otherwise, so forced a construction would require very strong evidence to confirm it. But a glance at the rest of the despatch and at the other papers will show that the more simple interpretation of the words is the correct one. For Mr. Adams goes on to say:

> The correspondence between M. Poletica and this Department contained no discussion of the principles or of the facts upon which he attempted the justification of the Imperial Ukase. This was purposely avoided on our part, under the expectation that the Imperial Government could not fail, upon a review of the measure, to revoke it altogether. It did, however, excite much public animadversion in this

country, as the Ukase itself had already done in England. I inclose herewith the "North American Review" for October 1822, No. 37, which contains an Article (p. 370) written by a person fully master of the subject; and for the view of it taken in England I refer you to the fifty-second number of the "Quarterly Review," the article upon Lieutenant Kotzebue's voyages. From the article in the "North American Review" it will be seen that the rights of discovery, of occupancy, and of uncontested possession, alleged by M. Poletica, are all without foundation in fact. . . .

On reference to the last-mentioned article, it will be found that the writer states that "a trade to the north-western coast of America and the free navigation of the waters that wash its shores have been enjoyed as a common right by subjects of the United States and of several European Powers, without interruption, for nearly forty years. We are by no means prepared to believe, or admit, that all this has been on sufferance merely, and that the *rights* of commerce and navigation in that region have been vested in Russia alone." Further on he puts the question in the following manner (the italics are his own): "It is not, we apprehend, whether Russia has any settlements that
515 give her territorial claims on the Continent of America. This we do not deny—but it is *whether the location of those settlements and the discoveries of her navigators are such as they are represented to be; whether they entitle her to the exclusive possession of the whole territory north of 51°, and to sovereignty over the Pacific Ocean beyond that parallel.*"

These passages sufficiently illustrate Mr. Adams' meaning, if any evidence be required that he used plain language in its ordinary sense. Clearly he meant to deny that the Russian settlements or discoveries gave Russia any claim as of right to exclude the navigation or fishery of other nations from any part of the seas on the coast of America, and that her rights in this respect were limited to the territorial waters of certain islands of which she was in permanent and complete occupation.

Having distinctly laid down this proposition as regards the rights of the case, Mr. Adams went on to state what the United States were ready to agree to as a matter of Conventional arrangement. He said:

With regard to the territorial claim, separate from the right of traffic with the natives and from any system of colonial exclusions, we are willing to agree to the boundary-line within which the Emperor Paul had granted exclusive privileges to the Russian American Company, that is to say, latitude 55°.

If the Russian Government apprehend serious inconvenience from the illicit traffic of foreigners with their settlements on the north-west coast, it may be effectually guarded against by stipulations similar to those a draft of which is herewith subjoined, and to which you are authorized, on the part of the United States, to agree. . . .

The draft Convention was as follows:

Draft of Treaty between the United States and Russia.

Article I. In order to strengthen the bonds of friendship, and to preserve in future a perfect harmony and good understanding between the Contracting Parties, it is agreed that their respective citizens and subjects shall not be disturbed or molested, either in navigating or in carrying on their fisheries in the Pacific Ocean or in the South Seas, or in landing on the coasts of those seas, in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, subject, nevertheless, to the restrictions and provisions specified in the two following Articles.

Art. II. To the end that the navigation and fishery of the citizens and subjects of the Contracting Parties, respectively, in the Pacific Ocean or in the South Seas may not be made a pretext for illicit trade with their respective settlements, it is agreed that the citizens of the United States shall not land on any part of the coast actually occupied by Russian settlements, unless by permission of the Governor or Commander thereof, and that Russian subjects shall, in like manner, be interdicted from landing without permission at any settlement of the United States on the said north-west coast.

Art. III. It is agreed that no settlement shall be made hereafter on the north-west coast of America by citizens of the United States or under their authority, north, nor by Russian subjects, or under the authority of Russia, south of the 55th degree of north latitude.

In an explanatory despatch to Mr. Rush, the American Minister in London, same date, Mr. Adams says:

The right of carrying on trade with the natives throughout the north-west coast they (the United States) cannot renounce. With the Russian settlements at Kodiak, or at New Archangel, they may fairly claim the advantage of a free trade, having so long enjoyed it unmolested, and because it has been and would continue to be as advantageous at least to those settlements as to them. But they will not contest the right of Russia to prohibit the traffic, as strictly confined to the Russian settlement itself, and not extending to the original natives of the coast. . . .

It is difficult to conceive how the term "north-west coast of America" used here and elsewhere can be interpreted otherwise than as applying to the north-west coast of America generally, or how it can be seriously contended that it was meant to denote only the more westerly portion, excluding the more north-westerly part, because by becoming a Russian possession this latter had ceased to belong to the American Continent.

Mr. Blaine states that when Mr. Middleton declared that Russia had no right of exclusion on the coasts of America between the 50th and 60th degrees of north latitude, nor in the seas which washed those coasts, he intended to make a distinction between Behring's Sea and the Pacific Ocean. But upon reference to a Map, it will be seen that the 60th degree of north latitude strikes straight across Behring's Sea, leaving by far the larger and more important part of it to the south; so that I confess it appears to me that by no conceivable construction of his words can Mr. Middleton be supposed to have excepted that sea from those which he declared to be free.

With regard to the construction which Mr. Blaine puts upon the Treaty between the United States and Russia of the 17th April, 1824,

I will only say that it is, as far as I am aware, an entirely novel
516 one, that there is no trace of its having been known to the various publicists who have given an account of the controversy in Treaties on International Law, and that it is contrary, as I shall show, to that which the British negotiators placed on the Treaty when they adopted the Ist and IInd Articles for insertion in the British Treaty of the 28th February, 1825. I must further dissent from his interpretation of Article VII of the latter Treaty. That Article gives to the vessels of the two Powers "liberty to frequent all the inland seas, gulfs, havens, and creeks on the coast mentioned in Article III, for the purpose of fishing and of trading with the natives." The expression "coast mentioned in Article III" can only refer to the first words of the Article: "The line of demarcation between the possessions of the High Contracting Parties upon the coast of the continent and the islands of America to the north-west shall be drawn," &c. That is to say, it included all the possessions of the two Powers on the north-west coast of America. For there would have been no sense whatever in stipulating that Russian vessels should have freedom of access to the small portion of coast which, by a later part of the Article, is to belong to Russia. And as bearing on this point it will be noticed that Article VI, which has a more restricted bearing, speaks only of "the subjects of His Britannic Majesty," and of "the *line of coast described* in Article III."

The stipulations of the Treaty were formally renewed by Articles inserted in the General Treaties of Commerce between Great Britain and Russia of 1843 and 1859. But Mr. Blaine states that "the rights

of the Russian American Company, which, under both Ukases, included the sovereignty over the sea to the extent of 100 miles from the shores, were reserved by special clause in a separate and special Article signed after the principal Articles of the Treaty had been concluded and signed."

Upon this I have to observe, in the first place that the Ukase of 1799 did not contain any mention whatever of sovereignty over the sea; secondly, that the context of the Separate Article is such as altogether to preclude the interpretation that it was meant to recognize the objectionable claim contained in the Ukase of 1821. I will quote the Article at length:

Separate Article II.

It is understood in like manner that the exceptions, immunities, and privileges hereinafter mentioned shall not be considered as at variance with the principle of reciprocity which forms the basis of the Treaty of this date, that is to say:

1. The exemption from navigation dues during the first three years, which is enjoyed by vessels built in Russia and belonging to Russian subjects.

3. The exemptions of the like nature granted in the Russian ports of the Black Sea, the Sea of Azof, and the Danube to such Turkish vessels arriving from ports of the Ottoman Empire situated on the Black Sea, as do not exceed 80 lasts burden.

3. The permission granted to the inhabitants of the coast of the Government of Archangel, to import duty free, or on payment of moderate duties, into the ports of the said Government, dried or salted fish, as likewise certain kinds of furs, and to export therefrom, in the same manner, corn, rope and cordage, pitch, and ravensduck.

4. The privilege of the Russian American Company.

5. The privilege of the Steam Navigation Companies of Lubeck and Havre; lastly,

6. The immunities granted in Russia to certain English Companies, called "Yacht Clubs."

To suppose that under the simple words, "the privilege of the Russian American Company," placed in connection with the privilege of French and German Steam Navigation Companies, and the immunities of yacht clubs, it was intended to acknowledge a claim of jurisdiction against which her Majesty's Government had formally protested as contrary to international law, and which it had avowedly been one of the main objects of the Treaty of 1825 to extinguish, is a suggestion too improbable to require any lengthened discussion.

But Her Majesty's Government did not of course agree to the Article without knowing what was the exact nature of the privileges thus excepted from reciprocity. They had received from the Russian Ambassador, in December 1842, an explanatory Memorandum on this subject, of which the following is the portion relating to the Russian American Company:

IV.

La Compagnie Russe Américaine a le privilège d'expédier francs de droits: de Cronstadt autour du monde et d'Ochotsk dans les Colonies Russes, les produits Russes ainsi que les marchandises étrangères dont les droits ont déjà été prélevés; de même d'importer au retour de ces Colonies des cargaisons de pelleteries et d'autres produits de ces Colonies, sans payer aucun droit si d'après les lois générales il n'est pas établi d'impôt particulier intérieur sur les marchandises de pelleterie.

Observation.—D'après le Tarif en vigueur, l'importation des fourrures dans les ports de St.-Pétersbourg et d'Archangel, de production Russe et sur des vaisseaux Russes, est admise sans droits.

517 It is surely incredible that if the privilege of the Russian American Company did comprise a right of excluding vessels from approaching within 100 miles of the shore, it should not even have been alluded to in this explanation.

Nor is it possible to agree in Mr. Blaine's view, that the exclusion of foreign vessels for a distance of 100 miles from the coast remained in

force pending the negotiations, and in so far as it was not modified by the Conventions. A claim of jurisdiction over the open sea, which is not in accordance with the recognized principles of international law or usage, may, of course, be asserted by force, but cannot be said to have any legal validity as against the vessels of other countries, except in so far as it is positively admitted by Conventional Agreements with those countries.

I do not suppose that it is necessary that I should argue at length upon so elementary a point as that a claim to prohibit the vessels of other nations from approaching within a distance of 100 miles from the coast is contrary to modern international usage. Mr. Adams and Mr. Canning clearly thought in 1823 that the matter was beyond doubt or discussion.

The rule which was recognized at that time, and which has been generally admitted both by publicists and Governments, limits the jurisdiction of a country in the open sea to a distance of 3 miles from its coasts, this having been considered to be the range of a cannon-shot when the principle was adopted.

Wheaton, who may be regarded as a contemporary authority, equally respected in Europe and America, says:

> The maritime territory of every State extends to the ports, harbours, bays, mouths of rivers, and adjacent parts of the sea inclosed by headlands belonging to the same State. The general usage of nations superadds to this extent of territorial jurisdiction a distance of a marine league, or as far as a cannon-shot will reach from the shore along all the coasts of the State.

And again—

> The rule of law on this subject is *terræ dominium finitur ubi finitur armorum vis;* and since the introduction of fire-arms that distance has usually been recognized to be about 3 miles from the shore.

Chancellor Kent, who is inclined to advocate a more extended limit, still admits that:

> According to the current of modern authority, the general territorial jurisdiction extends into the sea as far as cannon-shot will reach, and no farther; and this is generally calculated to be a marine league.

Calvo, one of the most recent text-writers, makes a corresponding statement:

> Les limites juridictionnelles d'un État embrassent non seulement son territoire, mais encore les eaux qui le traversent ou l'entourent, les ports, les baies, les golfes, le sembouchures des fleuves et les mers enclavées dans son territoire. L'usage général des nations permet également aux États d'exercer leur juridiction sur la zone maritime jusqu'à 3 mille marins ou à la portée de canon de leurs côtes.

But I need scarcely appeal to any other authority than that of the United States Government itself.

In a note to the Spanish Minister, dated the 16th December, 1862, on the subject of the Spanish claim to a 6-mile limit at sea, Mr. Seward stated:*

> A third principle bearing on the subject is also well established, namely, that this exclusive sovereignty of a nation—thus abridging the universal liberty of the seas—extends no farther than the power of the nation to maintain it by force, stationed on the coast, extends. This principle is tersely expressed in the maxim: "*Terræ dominium finitur ubi finitur armorum vis.*"
>
> But it must always be a matter of uncertainty and dispute at what point the force of arms, exerted on the coast, can actually reach. The publicists rather advanced towards than reached a solution when they laid down the rule that the limit of the force is the range of a cannon-ball. The range of a cannon-ball is shorter or longer according to the circumstances of projection, and it must be always liable to change with the improvement of the science of ordnance. Such uncer-

* Wharton's International Law Digest, vol. i, § 32.

tainty upon a point of jurisdiction or sovereignty would be productive of many and endless controversies and conflicts. A more practical limit of national jurisdiction upon the high seas was indispensably necessary, and this was found, as the Undersigned thinks, in fixing the limit at 3 miles from the coast. This limit was early proposed by the publicists of all maritime nations. While it is not insisted that all nations have accepted or acquiesced and bound themselves to abide by this rule when applied to themselves, yet three points involved in the subject are insisted upon by the United States:

518 1. That this limit has been generally recognized by nations;

2. That no other general rule has been accepted; and

3. That if any State has succeeded in fixing for itself a larger limit, this has been done by the exercise of maritime power, and constitutes an exception to the general understanding which fixes the range of a cannon-shot (when it is made the test of jurisdiction) at 3 miles. So generally is this rule accepted, that writers commonly use the expressions of a range of cannon-shot and 3 miles as equivalents of each other. In other cases, they use the latter expression as a substitute for the former.

And in a later communication on the same subject of the 10th August, 1863, he observes:

Nevertheless, it cannot be admitted, nor indeed is Mr. Tassara understood to claim, that the mere assertion of a Sovereign, by an act of legislation, however solemn, can have the effect to establish and fix its external maritime jurisdiction. His right to a jurisdiction of 3 miles is derived, not from his own Decree, but from the law of nations, and exists, even though he may never have proclaimed or asserted it by any Decree or Declaration whatsoever. He cannot, by a mere Decree, extend the limit and fix it at 6 miles, because, if he could, he could in the same manner, and upon motives of interest, ambition, or even upon caprice, fix it at 10, or 20, or 50 miles without the consent or acquiescence of other Powers which have a common right with himself in the freedom of all the oceans. Such a pretension could never be successfully or rightfully maintained.

The same principles were laid down in a note addressed to Sir E. Thornton by Mr. Fish, then Secretary of State, on the 22nd January, 1875. Mr. Fish there stated: "We have always understood and asserted that pursuant to public law no nation can rightfully claim jurisdiction at sea beyond a marine league from the coast."

He then went on to explain the only two exceptions that were apparently known to him so far as the United States were concerned: certain Revenue Laws which admitted the boarding of vessels at a distance of 4 leagues from the coast, which, he said, had never been so applied in practice as to give rise to complaint on the part of a foreign Government; and a Treaty between the United States and Mexico of 1848, in which the boundary-line between the two States was described as beginning in the Gulf of Mexico, 3 leagues from land. As regards this stipulation, he observed that it had been explained at the time that it could only affect the rights of Mexico and the United States, and was never intended to trench upon the rights of Great Britain or of any other Power under the law of nations.

It would seem, therefore, that Mr. Fish was entirely unaware of the exceptional jurisdiction in Behring's Sea, which is now said to have been conceded by the United States to Russia from 1823 to 1867, transferred to the United States, so far as the American coast was concerned, only eight years before he wrote, and which would presumably be still acknowledged by them as belonging to Russia on the Asiatic shore. I must suppose that when Mr. Blaine states that "both the United States and Great Britain recognized, respected, obeyed" the Ukase of 1821, in so far as it affected Behring's Sea, he has some evidence to go upon in regard to the conduct of his country which is unknown to the world at large, and which he has not as yet produced. But I must be allowed altogether to deny that the attitude of Great Britain was such as he represents, or that she ever admitted by act or by sufferance the extraordinary claim of maritime jurisdiction which that Ukase contained.

The inclosed copies of correspondence, extracted from the archives of this Office, make it very difficult to believe that Mr. Blaine has not been altogether led into error. It results from them that not only did Her Majesty's Government formally protest against the Ukase on its first issue as contrary to the acknowledged law of nations, but that the Russian Government gave a verbal assurance that the claim of jurisdiction would not be exercised. In the subsequent negotiations great importance was attached to obtaining a more formal disavowal of the claim in the manner least hurtful to Russian susceptibilities, but so as effectually to preclude its revival. And this security the British Government undoubtedly considered that both they and the United States had obtained by the Conventions of 1824 and 1825.

Upon this point the instructions given by Mr. George Canning to Mr. Stratford Canning when the latter was named Plenipotentiary to negotiate the Treaty of 1825 have a material bearing.

Writing under date the 8th December, 1824, after giving a summary of the negotiations up to that date, he goes on to say:

It is comparatively indifferent to us whether we hasten or postpone all questions respecting the limits of territorial possession on the Continent of America, but the pretensions of the Russian Ukase of 1821, to exclusive dominion over the Pacific, could not continue longer unrepealed without compelling us to take some measure of public and effectual remonstrance against it.

519 You will, therefore, take care in the first instance to repress any attempt to give this change to the character of the negotiation, and will declare, without reserve, that the point to which alone the solicitude of the British Government, and the jealousy of the British nation, attach any great importance is the doing away (in a manner as little disagreeable to Russia as possible) of the effect of the Ukase of 1821.

That this Ukase is not acted upon, and that instructions have long ago been sent by the Russian Government to their cruizers in the Pacific to suspend the execution of its provisions, is true, but a private disavowal of a published claim is no security against the revival of that claim; the suspension of the execution of a principle may be perfectly compatible with the continued maintenance of the principle itself.

* * * * * * *

The right of the subjects of His Majesty to navigate freely in the Pacific cannot be held as a matter of indulgence from any Power. Having once been publicly questioned, it must be publicly acknowledged.

We do not desire that any distinct reference should be made to the Ukase of 1821, but we do feel it necessary that the statement of our right should be clear and positive, and that it should stand forth in the Convention in the place which properly belongs to it as a plain and substantive stipulation, and not be brought in as an incidental consequence of other arrangements to which we attach comparatively little importance.

This stipulation stands in the grant of the Convention concluded between Russia and the United States of America, and we see no reason why, upon similar claims, we should not obtain exactly the like satisfaction.

For reasons of the same nature we cannot consent that the liberty of navigation through Behring's Straits should be stated in the Treaty as a boon from Russia.

The tendency of such a statement would be to give countenance to those claims of exclusive jurisdiction against which we, on our own behalf and on that of the whole civilized world, protest.

* * * * * * *

It will of course strike the Russian Plenipotentiaries that, by the adoption of the American Article respecting navigation, &c., the provision for an exclusive fishery of 2 leagues from the coasts of our respective possessions falls to the ground.

But the ommission is, in truth, immaterial.

The law of nations assigns the exclusive sovereignty of 1 league to each Power off its own coasts, without any specified stipulation, and though Sir Charles Bagot was authorized to sign the Convention with the specific stipulation of 2 leagues, in ignorance of what had been decided in the American Convention at the time, yet, after that Convention has been some months before the world, and after the opportunity of reconsideration has been forced upon us by the act of Russia herself, we cannot now consent, in negotiating *de novo*, to a stipulation which, while it is absolutely unimportant to any practical good, would appear to establish a contract between the United States and us to our disadvantage.

Mr. Stratford Canning, in his despatch of the 1st March, 1825, inclos- the Convention as signed, says:

With respect to Behring's Straits, I am happy to have it in my power to assure you the joint authority of the Russian Plenipotentiaries, that the Emperor of Russia no intention whatever of maintaining any exclusive claim to the navigation of ne Straits, or of the seas to the north of them.

These extracts show conclusively: (1) that England refused to admit y part of the Russian claim asserted by the Ukase of 1821 to a mari- ne jurisdiction and exclusive right of fishing throughout the whole tent of that claim, from Behring's Straits to the 51st parallel; (2) at the Convention of 1825 was regarded on both sides as a renuncia- n on the part of Russia of that claim in its entirety; and (3) that ough Behring's Straits was known and specifically provided for, Beh- ng's Sea was not known by that name, but was regarded as part of the cific Ocean.

The answer, therefore, to the questions with which Mr. Blaine con- udes his despatch is that Her Majesty's Government have always aimed the freedom of navigation and fishing in the waters of Beh- ng's Sea outside the usual territorial limit of 1 marine league from the ast; that it is impossible to admit that a public right to fish, catch als, or pursue any other lawful occupation on the high seas can be ld to be abandoned by a nation from the mere fact that for a certain mber of years it has not suited the subjects of that nation to exer- se it.

It must be remembered that British Columbia has come into exist- ce as a Colony at a comparatively recent date, and that the first nsiderable influx of population, some thirty years ago, was due to the scovery of gold, and did not tend to an immediate development of e shipping interest.

I have to request that you will communicate a copy of this despatch, d of its inclosures, to Mr. Blaine. You will state that her Maj- ty's Government have no desire whatever to refuse to the United ates any jurisdiction in Behring's Sea which was conceded by Great Britain to Russia, and which properly accrues to the present possessors of Alaska in virtue of Treaties or the law of nations; and that if the United States Government, after examination of e evidence and arguments which I have produced, still differ from m as to the legality of the recent captures in that sea, they are ready agree that the question, with the issues that depend upon it, should referred to impartial arbitration. You will in that case be author- d to consider, in concert with Mr. Blaine, the method of procedure be followed.

I am, &c.

(Signed) SALISBURY.

[Inclosure 1 in No. 382.]

Lord Londonderry to Count Lieven.

FOREIGN OFFICE, *January 18, 1822.*

he Undersigned has the honour hereby to acknowledge the note addressed to by Baron de Nicolai, of the 12th November last, covering a copy of an Ukase ed by His Imperial Majesty the Emperor of All the Russias, and bearing date the September, 1821, for various purposes therein set forth, especially connected h the territorial rights of his Crown on the north-western coast of America dering upon the Pacific, and the commerce and navigation of His Imperial jesty's subjects in the seas adjacent thereto.

This document, containing Regulations of great extent and importance, both in its territorial and maritime bearings, has been considered with the utmost attention, and with those favourable sentiments which His Majesty's Government always bear towards the acts of a State with which His Majesty has the satisfaction to feel himself connected by the most intimate ties of friendship and alliance, and having been referred for the Report of those high legal authorities whose duty it is to advise His Majesty on such matters, the Undersigned is directed, till such friendly explanations can take place between the two Governments as may obviate misunderstanding upon so delicate and important a point, to make such provisional protest against the enactments of the said Ukase as may fully serve to save the rights of His Majesty's Crown, and may protect the persons and properties of His Majesty's subjects from molestation in the exercise of their lawful callings in that quarter of the globe.

The Undersigned is commanded to acquaint Count Lieven that, it being the King's constant desire to respect and cause to be respected by his subjects, in the fullest manner, the Emperor of Russia's just rights, His Majesty will be ready to enter into amicable explanations upon the interests affected by this instrument, in such manner as may be most acceptable to His Imperial Majesty.

In the meantime, upon the subject of this Ukase generally, and especially upon the two main principles of claim laid down therein, viz., an exclusive sovereignty alleged to belong to Russia over the territories therein described, as also the exclusive right of navigating and trading within the maritime limits therein set forth, His Britannic Majesty must be understood as hereby reserving all his rights, not being prepared to admit that the intercourse which is allowed on the face of this instrument to have hitherto subsisted on those coasts, and in those seas, can be deemed to be illicit; or that the ships of friendly Powers, even supposing an unqualified sovereignty was proved to appertain to the Imperial Crown, in these vast and very imperfectly occupied territories, could, by the acknowledged law of nations, be excluded from navigating within the distance of 100 Italian miles, as therein laid down, from the coast the exclusive dominion of which is assumed (but as His Majesty's Government conceive in error) to belong to His Imperial Majesty the Emperor of All the Russias.

(Signed) LONDONDERRY.

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521 [Inclosure 2 in No. 382.]

Memorandum by the Duke of Wellington.—(September 11, 1822.)

In the course of a conversation which I had yesterday with Count Lieven, he informed that he had been directed to give verbal explanations of the Ukase respecting the north-western coast of America. These explanations went, he said, to this, that the Emperor did not propose to carry into execution the Ukase in its extended sense; that His Imperial Majesty's ships had been directed to cruize at the shortest possible distance from the shore, in order to supply the natives with arms and ammunition, and in order to warn all vessels that that was His Imperial Majesty's dominion, and that His Imperial Majesty had besides given directions to his Minister in the United States to agree upon a Treaty of Limits with the United States.

[Inclosure 3 in No. 382.]

Mr. G. Canning to the Duke of Wellington.

FOREIGN OFFICE, *September 27, 1822.*

MY LORD DUKE: Your Grace is already in possession of all that has passed both here and at St. Petersburgh, on the subject of the issue, in September of last year, by the Emperor of Russia, of an Ukase, indirectly asserting an exclusive right of sovereignty from Behring's Straits to the 51st degree of north latitude on the west coast of America, and to the 45th degree north on the opposite coast of Asia; and (as a qualified exercise of that right) prohibiting all foreign ships, under pain of confiscation, from approaching within 100 Italian miles of those coasts. This Ukase having been communicated by Baron Nicolai, the Russian Chargé d'Affaires at this Court, to His Majesty's Government, was forthwith submitted to the legal authorities whose duty it is to advise His Majesty on such matters, and a note was in consequence addressed by the late Marquis of Londonderry to Count Lieven, the Russian Ambassador, and also communicated to His Majesty's Ambassador at St. Petersburgh, protesting against the enactments of the said Ukase, and requesting such

amicable explanations as might tend to reconcile the pretensions of Russia in that quarter of the globe with the just rights of His Majesty's Crown and the interests of his subjects. As such explanations will probably be offered to your Grace during the Conferences about to take place at Vienna, I hasten to signify to you the King's commands as to the language which you will hold on the part of His Majesty upon this subject.

The opinions given in November and December last by Lord Stowell and by His Majesty's Advocate-General (copies of which are already in your possession) will furnish you with the best legal arguments in opposition to the pretensions put forward in the Russian Ukase; and, as in both these opinions much stress is very properly laid upon the state of actual occupation of the territories claimed by Russia, and the different periods of time at which they were so occupied, I have obtained from the Governor of the principal Company of His Majesty's subjects trading in that part of the world the information which your Grace will find in the inclosed papers.

That information will enable you sufficiently to prove to the Russian Minister, not only that the point of prior discovery may be fairly disputed with Russia, but that the much more certain title of actual occupation by the agents and the trading servants of the Hudson's Bay Company extends at this moment to many degrees of higher latitude on the north-west coast of America than is claimed as the territory of Russia by the Ukase in question.

Enlightened statesmen and jurists have long held as insignificant all titles of territory that are not founded on actual occupation, and that title is, in the opinion of the most esteemed writers on public law, to be established only by practical use.

With respect to the other points in the Ukase which have the effect of extending the territorial rights of Russia over the adjacent seas to the unprecedented distance of 100 miles from the line of coast, and of closing a hitherto unobstructed passage, at the present moment the object of important discoveries for the promotion of general commerce and navigation, these pretensions are considered by the best legal authorities as positive innovations on the rights of navigation; as such they can receive no explanation from further discussion, nor can by possibility be justified. Common usage, which has obtained the force of law, has indeed assigned to coasts and shores an accessorial boundary to a short limited distance for purposes of protection and general convenience, in no manner interfering with the rights of others, and not obstructing the freedom of general commerce and navigation. But this important qualification the extent of the present claim entirely excludes, and when such a prohibition is, as in the present case, applied to a long line of coasts and also to intermediate islands in remote seas, where navigation is beset with innumerable and unforeseen difficulties, and where the principal employment of the fisheries must be pursued under circumstances which are incompatible with the prescribed courses, all particular considerations concur, in an especial manner, with the general principle, in repelling such a pretension as an encroachment on the freedom of navigation, and the unalienable rights of all nations.

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I have, indeed, the satisfaction to believe, from a conference which I have had with Count Lieven on this matter, that upon these two points—the attempt to shut up the passage altogether, and the claim of exclusive dominion to so enormous a distance from the coast—the Russian Government are prepared entirely to waive their pretensions. The only effort that has been made to justify the latter claim was by reference to an Article in the Treaty of Utrecht, which assigns 30 leagues from the coast as the distance of prohibition. But to this argument it is sufficient to answer that the assumption of such a space was, in the instance quoted, by stipulation in a Treaty, and one to which, therefore, the party to be affected by it had (whether wisely or not) given its deliberate consent. No inference could be drawn from that transaction in favour of a claim by authority against all the world.

I have little doubt, therefore, but that the public notification of the claim to consider the portions of the ocean included between the adjoining coasts of America and the Russian Empire as a *mare clausum*, and to extend the exclusive territorial jurisdiction of Russia to 100 Italian miles from the coast, will be publicly recalled; and I have the King's commands to instruct your Grace further to require of the Russian Minister (on the ground of the facts and reasonings furnished in this despatch and its inclosures) that such a portion of territory alone shall be defined as belonging to Russia as shall not interfere with the rights and actual possessions of His Majesty's subjects in North America.

I am, &c.

(Signed) GEO. CANNING.

This document, containing Regulations of great extent and importance, both in its territorial and maritime bearings, has been considered with the utmost attention, and with those favourable sentiments which His Majesty's Government always bear towards the acts of a State with which His Majesty has the satisfaction to feel himself connected by the most intimate ties of friendship and alliance, and having been referred for the Report of those high legal authorities whose duty it is to advise His Majesty on such matters, the Undersigned is directed, till such friendly explanations can take place between the two Governments as may obviate misunderstanding upon so delicate and important a point, to make such provisional protest against the enactments of the said Ukase as may fully serve to save the rights of His Majesty's Crown, and may protect the persons and properties of His Majesty's subjects from molestation in the exercise of their lawful callings in that quarter of the globe.

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(Signed) LONDONDERRY.

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[Inclosure 3 in No. 382.]

Mr. G. Canning to the Duke of Wellington.

FOREIGN OFFICE, *September 27, 1822.*

MY LORD DUKE: Your Grace is already in possession of all that has passed both here and at St. Petersburgh, on the subject of the issue, in September of last year, by the Emperor of Russia, of an Ukase, indirectly asserting an exclusive right of sovereignty from Behring's Straits to the 51st degree of north latitude on the west coast of America, and to the 45th degree north on the opposite coast of Asia; and (as a qualified exercise of that right) prohibiting all foreign ships, under pain of confiscation, from approaching within 100 Italian miles of those coasts. This Ukase having been communicated by Baron Nicolai, the Russian Chargé d'Affaires at this Court, to His Majesty's Government, was forthwith submitted to the legal authorities whose duty it is to advise His Majesty on such matters, and a note was in consequence addressed by the late Marquis of Londonderry to Count Lieven, the Russian Ambassador, and also communicated to His Majesty's Ambassador at St. Petersburgh, protesting against the enactments of the said Ukase, and requesting such

amicable explanations as might tend to reconcile the pretensions of Russia in that quarter of the globe with the just rights of His Majesty's Crown and the interests of his subjects. As such explanations will probably be offered to your Grace during the Conferences about to take place at Vienna, I hasten to signify to you the King's commands as to the language which you will hold on the part of His Majesty upon this subject.

The opinions given in November and December last by Lord Stowell and by His Majesty's Advocate-General (copies of which are already in your possession) will furnish you with the best legal arguments in opposition to the pretensions put forward in the Russian Ukase; and, as in both these opinions much stress is very properly laid upon the state of actual occupation of the territories claimed by Russia, and the different periods of time at which they were so occupied, I have obtained from the Governor of the principal Company of His Majesty's subjects trading in that part of the world the information which your Grace will find in the inclosed papers.

That information will enable you sufficiently to prove to the Russian Minister, not only that the point of prior discovery may be fairly disputed with Russia, but that the much more certain title of actual occupation by the agents and the trading servants of the Hudson's Bay Company extends at this moment to many degrees of higher latitude on the north-west coast of America than is claimed as the territory of Russia by the Ukase in question.

Enlightened statesmen and jurists have long held as insignificant all titles of territory that are not founded on actual occupation, and that title is, in the opinion of the most esteemed writers on public law, to be established only by practical use.

With respect to the other points in the Ukase which have the effect of extending the territorial rights of Russia over the adjacent seas to the unprecedented distance of 100 miles from the line of coast, and of closing a hitherto unobstructed passage, at the present moment the object of important discoveries for the promotion of general commerce and navigation, these pretensions are considered by the best legal authorities as positive innovations on the rights of navigation; as such they can receive no explanation from further discussion, nor can by possibility be justified. Common usage, which has obtained the force of law, has indeed assigned to coasts and shores an accessorial boundary to a short limited distance for purposes of protection and general convenience, in no manner interfering with the rights of others, and not obstructing the freedom of general commerce and navigation. But this important qualification the extent of the present claim entirely excludes, and when such a prohibition is, as in the present case, applied to a long line of coasts and also to intermediate islands in remote seas, where navigation is beset with innumerable and unforeseen difficulties, and where the principal employment of the fisheries must be pursued under circumstances which are incompatible with the prescribed courses, all particular considerations concur, in an especial manner, with the general principle, in repelling such a pretension as an encroachment on the freedom of navigation, and the unalienable rights of all nations.

I have, indeed, the satisfaction to believe, from a conference which I have had with Count Lieven on this matter, that upon these two points—the attempt to shut up the passage altogether, and the claim of exclusive dominion to so enormous a distance from the coast—the Russian Government are prepared entirely to waive their pretensions. The only effort that has been made to justify the latter claim was by reference to an Article in the Treaty of Utrecht, which assigns 30 leagues from the coast as the distance of prohibition. But to this argument it is sufficient to answer that the assumption of such a space was, in the instance quoted, by stipulation in a Treaty, and one to which, therefore, the party to be affected by it had (whether wisely or not) given its deliberate consent. No inference could be drawn from that transaction in favour of a claim by authority against all the world.

I have little doubt, therefore, but that the public notification of the claim to consider the portions of the ocean included between the adjoining coasts of America and the Russian Empire as a *mare clausum*, and to extend the exclusive territorial jurisdiction of Russia to 100 Italian miles from the coast, will be publicly recalled; and I have the King's commands to instruct your Grace further to require of the Russian Minister (on the ground of the facts and reasonings furnished in this despatch and its inclosures) that such a portion of territory alone shall be defined as belonging to Russia as shall not interfere with the rights and actual possessions of His Majesty's subjects in North America.

I am, &c.

(Signed) GEO. CANNING.

[Inclosure 4 in No. 382.]

Memorandum on Russian Ukase of 1821.

In the month of September 1821 His Imperial Majesty the Emperor of Russia issued an Ukase asserting the existence in the Crown of Russia of an exclusive right of sovereignty in the countries extending from Behring's Straits to the 51st degree of North latitude on the west coast of America, and to the 45th degree of north latitude on the opposite coast of Asia; and, as a qualified exercise of that right of sovereignty, prohibiting all foreign vessels from approaching within 100 Italian miles of those coasts.

After this Ukase had been submitted by the King's Government to those legal authorities whose duty it is to advise His Majesty on such matters, a note was addressed by the late Marquis of Londonderry to Count Lieven, the Russian Ambassador, protesting against the enactments of this Ukase, and requesting such amicable explanations as might tend to reconcile the pretensions of Russia in that quarter of the globe with the just rights of His Majesty's Crown and the interests of his subjects.

We object, first, to the claim of sovereignty as set forth in this Ukase; and, secondly, to the mode in which it is exercised.

The best writers on the laws of nations do not attribute the exclusive sovereignty, particularly of continents, to those who have first discovered them; and although we might on good grounds dispute with Russia the priority of discovery of these continents, we contend that the much more easily proved, more conclusive, and more certain title of occupation and use ought to decide the claim of sovereignty.

Now, we can prove that the English North-West Company and the Hudson's Bay Company have for many years established forts and other trading-stations in a country called New Caledonia, situated to the west of a range of mountains called
523 Rocky Mountains, and extending along the shores of the Pacific Ocean from latitude 49° to latitude 60°.

This Company likewise possess factories and other establishments on Mackenzie's River, which falls into the Frazer River as far north as latitude 66° 30′, from whence they carry on trade with the Indians inhabiting the countries to the west of that river, and who, from the nature of the country, can communicate with Mackenzie's River with more facility than they can with the posts in New Caledonia. Thus, in opposition to the claims founded on discovery, the priority of which, however, we conceive we might fairly dispute, we have the indisputable claim of occupancy and use for a series of years, which all the best writers on the laws of nations admit is the best-founded claim for territory of this description. Objecting, as we do, to this claim of exclusive sovereignty on the part of Russia, I might save myself the trouble of discussing the particular mode of its exercise as set forth in this Ukase. But we object to the sovereignty proposed to be exercised under this Ukase not less than we do to the claim of it. We cannot admit the right of any Power possessing the sovereignty of a country to exclude the vessels of others from the seas on its coasts to the distance of 100 Italian miles. We must object likewise to the arrangements contained in the said Ukase conveying to private merchant-ships the right to search in time of peace, &c., which are quite contrary to the laws and usages of nations and to the practice of modern times.

(Signed) WELLINGTON.

VERONA, *October 17, 1822.*

To Count NESSELRODE.

[Inclosure 5 in No. 382.—Mémoire Confidentiel.]

Count Nesselrode to the Duke of Wellington.

VÉRONE, *le 11 (23) Novembre, 1822.*

Le Cabinet de Russie a pris en mûre considération le Mémoire Confidentiel que M. le Duc de Wellington lui a remis le 17 Octobre dernier, relativement aux mesures adoptées par Sa Majesté l'Empereur, sous la date du (4) 16 Septembre, 1821, pour déterminer l'étendue des possessions Russes sur la côte nord-ouest de l'Amérique, et pour interdire aux vaisseaux étrangers l'approche de ses possessions jusqu'à la distance de 100 milles d'Italie.

Les ouvertures faites à ce sujet au Gouvernement de Sa Majesté Britannique par le Comte de Lieven au moment où cet Ambassadeur allait quitter Londres doivent déjà avoir prouvé que l'opinion que le Cabinet de St. James avait conçue des mesures dont il s'agit n'était point fondée sur une appréciation entièrement exacte des vues de Sa Majesté Impériale.

La Russie est loin de méconnaître que l'usage et l'occupation constituent la plus solide des titres d'après lesquels un État puisse réclamer des droits de souveraineté sur une portion quelconque du Continent. La Russie est plus loin encore d'avoir voulu outrepasser arbitrairement les limites que ce titre assigne à ses domaines sur la côte nord-ouest de l'Amérique, ou ériger en principe général de droit maritime les règles qu'une nécessité purement locale l'avait obligée de poser pour la navigation étrangère dans le voisinage de la partie de cette côte qui lui appartient.

C'était au contraire parce qu'elle regardait ces droits de souveraineté comme légitimes, et parce que des considérations impérieuses tenant à l'existence même du commerce qu'elle fait dans les parages de la côte nord-ouest de l'Amérique, la forçaient à établir un système de précautions devenues indispensables, qu'elle a fait paraître l'Ukase du (4) 16 Septembre, 1821.

La Russie serait toujours prête à faire part des motifs qui en justifient les dispositions; mais pour le moment elle se bornera aux observations suivantes:

M. le Duc de Wellington affirme, dans son Mémoire Confidentiel du 17 Octobre, que des établissements Anglais, appartenant à deux Compagnies, celle de la Baye de Hudson et celle du Nord-Ouest, se sont formés dans une contrée appelée la Nouvelle-Calédonie, qui s'étend le long de la côte de l'Océan Pacifique, depuis le 49e jusqu'au 69e degré de latitude septentrionale.

La Russie ne parlera point des établissements qui peuvent exister entre le 49e et le 51e parallèle; mais quant aux autres, elle n'hésite pas de convenir qu'elle en ignore jusqu'à présent l'existence, pour autant au moins qu'ils toucheraient l'Ocean Pacifique.

Les Cartes Anglaises même les plus récentes et les plus détaillées n'indiquent
524 absolument aucune des stations de commerce mentionnées dans le Mémoire du 17 Octobre, sur la côte même de l'Amérique, entre le 51e et le 60e degré de latitude septentrionale.

D'ailleurs, depuis les expéditions de Behring et de Tchirikoff, c'est-à-dire depuis près d'un siècle, des établissements Russes ont pris, à partir du 60e degré, une extension progressive, qui dès l'année 1799 les avait fait parvenir jusqu'au 55e parallèle, comme le porte la première charte de la Compagnie Russe-Américaine, charte qui a reçu dans le temps une publicité officielle, et qui n'a motivé aucune protestation de la part de l'Angleterre.

Cette même charte accordait à la Compagnie Russe le droit de porter ses établissements vers le midi au delà du 55e degré de latitude septentrionale, pourvu que de tels accroissements de territoire ne pussent donner motif de réclamation à aucune Puissance étrangère.

L'Angleterre n'a pas non plus protesté contre cette disposition; elle n'a pas même réclamé contre les nouveaux établissements que la Compagnie Russe-Américaine a pu former au sud due 55e degré, en vertu de ce privilège.

La Russie était donc pleinement autorisée à profiter d'un consentement qui, pour être tacite, n'en était pas moins solennel, et à déterminer pour bornes des ses domaines le degré de latitude jusqu'auquel la Compagnie Russe avait étendu ses opérations depuis 1799.

Quoiqu'il en soit, et quelque force que ces circonstances prêtent aux titres de la Russie, Sa Majesté Impériale ne déviera point dans cette conjoncture du système habituel de sa politique.

Le premier de ses vœux sera toujours de prévenir toute discussion, et de consolider de plus en plus les rapports d'amitié et de parfaite intelligence qu'elle se félicite d'entretenir avec la Grande-Bretagne.

En conséquence l'Empereur a chargé son Cabinet de déclarer à M. le Duc de Wellington (sans que cette déclaration puisse préjudicier en rien à ses droits, si elle n'était point acceptée) qu'il est prêt à fixer, au moyen d'une négociation amicale, et sur la base des convenances mutuelles, les degrés de latitude et de longitude que les deux Puissances regarderont comme dernières limites de leurs possessions et de leurs établissements sur la côte nord-ouest de l'Amérique.

Sa Majesté Impériale se plaît à croire que cette négociation pourra se terminer sans difficulté à la satisfaction réciproque des deux États; et le Cabinet de Russie peut assurer dès à présent M. le Duc de Wellington que les mesures de précaution et de surveillance qui seront prises alors sur la partie Russe de la côte d'Amérique se trouveront entièrement conformes aux droits dérivant de la souveraineté, ainsi qu'aux usages établis entre nations, et qu'aucune plainte légitime ne pourra s'élever contre elles.

[Translation.—Confidential Memorandum.]

VERONA, *November 11 (23), 1822.*

The Cabinet of Russia have taken into mature consideration the Confidential Memorandum forwarded to them by the Duke of Wellington on the 17th October last, relative to the measures adopted by His Majesty the Emperor, under date of the 4th (16th) September, 1821, for defining the extent of the Russian possessions on the north-west coast of America, and for forbidding foreign vessels to approach his possessions within a distance of 100 Italian miles.

The overtures made on this subject to the Government of His Britannic Majesty by Count de Lieven at the moment when that Ambassador was about to leave London must already have proved that the opinion which the Cabinet of St. James' had formed of the measures in question was not founded on an entirely accurate appreciation of the views of His Imperial Majesty.

Russia is far from failing to recognize that custom and occupation constitute the most solid title upon which a State can claim rights of sovereignty over any portion of the mainland. Russia is still further from having wished to arbitrarily transgress the limits which that title assigns to her dominions on the north-west coast of America, or to exalt into a general principle of maritime law the rules which a necessity of purely local character had obliged her to lay down for foreign navigation in the neighbourhood of the portion of that coast which belongs to her.

It was, on the contrary, because she regarded those rights of sovereignty as legitimate, and because imperious considerations involving the very existence of the commerce which she carries on in the latitudes of the north-west coast of America compelled her to establish a system of precautions which became indispensable, that she caused the Ukase of the 4th (16th) September, 1821, to be issued.

525 Russia would be always ready to explain the motives which justify the provisions of that document; but for the moment she will confine herself to the following observations:

The Duke of Wellington asserts, in his Confidential Memorandum of the 17th October, that English establishments belonging to two Companies, the Hudson's Bay Company and the North-West Company, have been formed in a country called New Caledonia, which extends along the coast of the Pacific Ocean from the 49th to the 60th degree of north latitude.

Russia will not refer to the establishments which may exist between the 49th and 51st parallel; but, with regard to the others, she does not hesitate to admit that she is, up to the present, ignorant of their existence in so far at least as to their touching the Pacific Ocean.

Even the most recent and most minute English Maps give absolutely no indication of the trading stations, mentioned in the Memorandum of the 17th October, on the coast of America between the 51st and 60th degree of north latitude.

On the other hand, since the expeditions of Behring and Tchirikoff, that is nearly a century ago, Russian establishments have extended progressively from the 60th degree, so that by the year 1799 they had reached the 55th parallel, as is shown by the first Charter of the Russo-American Company, a Charter which received official publicity at the time, and drew forth no protest on the part of England.

This same Charter granted to the Russian Company the right to extend its establishments towards the south beyond the 55th degree of north latitude, provided that such increase of territory could not give rise to objections on the part of any foreign Power.

Nor did England protest against this provision either, nor did she even object to the new establishments which the Russo-American Company was able to form to the south of the 55th degree in virtue of that privilege.

Russia was therefore fully entitled to profit by a consent which, for being tacit, was none the less solemn, and to fix as the boundary of her dominions the degree of latitude up to which the Russian Company had extended its operations since 1799.

Be this as it may, and whatever force these circumstances may give to the titles of Russia, His Imperial Majesty will not deviate at this juncture from the habitual system of his policy.

His first wish will always be to prevent all discussion, and to strengthen more and more the relations of friendship and complete understanding which he is happy to maintain with Great Britain.

Consequently, the Emperor has charged his Cabinet to declare to the Duke of Wellington (such declaration not to prejudice his rights in any way if it be not accepted) that he is ready to fix, by means of friendly negotiation and on the basis of mutual accommodation, the degrees of latitude and longitude which the two Powers shall regard as the utmost limits of their possessions and of their establishments on the north-west coast of America.

His Imperial Majesty is pleased to believe that this negotiation can be completed without difficulty, to the mutual satisfaction of the two States; and the Cabinet of Russia can, from this moment, assure the Duke of Wellington that the measures of precaution and superintendence which will then be taken on the Russian part of the coast of America will be entirely in conformity with the rights derived from sovereignty and with the established customs of nations, and that there will be no possibility of legitimate cause of complaint against them.

[Inclosure 6 in No. 382.]

The Duke of Wellington to Mr. G. Canning.

VERONA, *November 23, 1822.*

SIR: I inclose a copy of a Confidential Memorandum which I gave to Count Nesselrode on the 17th October, regarding the Russian Ukase, and the copy of his answer.

I have had one or two discussions with Count Lieven upon this paper, to which I object, as not enabling His Majesty's Government to found upon it any negotiation to settle the questions arising out of the Ukase, which have not got the better of these difficulties; and I inclose you the copy of a letter which I have written to Count Lieven, which explains my objections to the Russian "Mémoire Confidentiel."

526 This question, then, stands exactly where it did. I have not been able to do anything upon it.

I have, &c.

(Signed) WELLINGTON.

[Inclosure 7 in No. 382.]

The Duke of Wellington to Count Lieven.

VERONA, *November 23, 1822.*

M. LE COMTE: Having considered the paper which your Excellency gave me last night, on the part of his Excellency Count Nesselrode, on the subject of our discussions on the Russian Ukase, I must inform you that I cannot consent, on the part of my Government, to found on that paper the negotiation for the settlement of the question which has arisen between the two Governments on this subject.

We object to the Ukase on two grounds: (1) that His Imperial Majesty assumes thereby an exclusive sovereignty in North America, of which we are not prepared to acknowledge the existence or the extent; upon this point, however, the Memoir of Count Nesselrode does afford the means of negotiation; and my Government will be ready to discuss it, either in London or St. Petersburgh, whenever the state of the discussions on the other question arising out of the Ukase will allow of the discussion.

The second ground on which we object to the Ukase is that His Imperial Majesty thereby excludes from a certain considerable extent of the open sea vessels of other nations. We contend that the assumption of this power is contrary to the law of nations; and we cannot found a negotiation upon a paper in which it is again broadly asserted. We contend that no Power whatever can exclude another from the use of the open sea; a Power can exclude itself from the navigation of a certain coast, sea, &c., by its own act or engagement, but it cannot by right be excluded by another. This we consider as the law of nations; and we cannot negotiate upon a paper in which a right is asserted inconsistent with this principle.

I think, therefore, that the best mode of proceeding would be that you should state your readiness to negotiate upon the whole subject, without restating the objectionable principle of the Ukase which we cannot admit.

I have, &c.

(Signed) WELLINGTON.

[Inclosure 8 in No. 382.]

The Duke of Wellington to Mr. G. Canning.

VERONA, *November 29, 1822.*

SIR: Since I wrote to you yesterday I have had another conversation with the Russian Minister regarding the Ukase. It is now settled that both the Memorandums which I inclosed to you should be considered as *non avenus*, and the Russian Ambassador in London is to address you a note in answer to that of the late Lord Londonderry, assuring you of the desire of the Emperor to negotiate with you upon the whole question of the Emperor's claims in North America, reserving them all if the result of the negotiation should not be satisfactory to both parties.

This note will then put this matter in a train of negotiation, which is what was wished.

I have, &c.

(Signed) WELLINGTON.

[Inclosure 9 in No. 382.]

Count Lieven to Mr. G. Canning.

A la suite des déclarations verbales que le Soussigné, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté l'Empereur de Toutes les Russies, a faites au Ministère de Sa Majesté Britannique, le Cabinet de St. James a dû se convaincre que si des objections s'étaient élevées contre le Règlement publié au nom de Sa
527 Majesté l'Empereur de Toutes les Russies sous la date du 4 (16) Septembre, 1821, les mesures ultérieures adoptées par Sa Majesté Impériale ne laissent aucun doute sur la pureté de ses vues et sur le désir qu'elle aura toujours de concilier ses droits et ses intérêts avec les intérêts et les droits des Puissances auxquelles l'unissent les liens d'une amitié véritable et d'une bienveillance réciproque.

Avant de quitter Vérone, le Soussigné a reçu l'ordre de donner au Gouvernement de Sa Majesté Britannique une nouvelle preuve des dispositions connues de l'Empereur, en proposant à son Excellence M. Canning, Principal Secrétaire d'État de Sa Majesté Britannique pour les Affaires Étrangères, sans que cette proposition puisse porter atteinte aux droits de Sa Majesté Impériale, si elle n'est pas acceptée, que de part et d'autre la question de droit strict soit provisoirement écartée, et que tous les différends auxquels a donné lieu le Règlement dont il s'agit, s'applanissent par un arrangement amical fondé sur le seul principe des convenances mutuelles et qui serait négocié à St. Pétersbourg.

L'Empereur se flatte que Sir Charles Bagot ne tardera point à recevoir les pouvoirs et les instructions nécessaires à cet effet, et que la proposition du Soussigné achèvera de démontrer au Gouvernement de Sa Majesté Britannique combien Sa Majesté Impériale souhaite qu'aucune divergence d'opinion ne puisse subsister entre la Russie et la Grande-Bretagne, et que le plus parfait accord continue de présider à leurs relations.

Le Soussigné, &c.

(Signé) LIEVEN.

LONDRES, *le 19 (31) Janvier, 1823.*

[Translation.]

By the verbal declarations made by the Undersigned, Ambassador Extraordinary and Plenipotentiary of His Majesty the Emperor of All the Russias, to Her Britannic Majesty's Government, the Cabinet of St. James' must have been convinced that, though exception had been taken to the Regulation published on the 4th (16th) September, 1821, in the name of His Majesty the Emperor of All the Russias, the subsequent steps taken by His Imperial Majesty leave no doubt as to the purity of his intentions, and as to the desire which will always animate him to reconcile his own rights and interests with those of the Powers to which he is linked by bonds of true friendship and reciprocal good-will.

Before leaving Verona the Undersigned received instructions to give the Government of Her Britannic Majesty a new proof of the known feelings of the Emperor, by proposing to his Excellency Mr. Canning, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, whilst reserving the rights of His Imperial Majesty should the proposal not be accepted, that the question of strict right should be provisionally set aside by both parties, and that all the differences created by the Regulation in question should be smoothed over by a friendly arrangement based solely on the principle of mutual accommodation to be negotiated at St. Petersburgh.

The Emperor flatters himself that Sir Charles Bagot will very shortly receive the necessary powers and instructions in the above sense, and that the proposal of the Undersigned will completely convince the Government of Her Britannic Majesty of the earnest wish of His Imperial Majesty that no difference of opinion should exist between Russia and Great Britain, and that the most perfect agreement should continue to guide their relations.

The Undersigned, &c.

(Signed) LIEVEN.

LONDON, *January 19 (31), 1823.*

[Inclosure 10 in No. 382.]

Mr. G. Canning to Sir C. Bagot.

FOREIGN OFFICE, *February 5, 1823.*

SIR: With respect to my despatch of the 31st December last, transmitting to your Excellency the copy of an instruction addressed to the Duke of Wellington, as well as a despatch from his Grace dated Verona, the 29th November last, both upon the subject of the Russian Ukase of September 1821, I have now to inclose to your

Excellency the copy of a note which has been addressed to me by Count Lieven, expressing His Imperial Majesty's wish to enter into some amicable arrange-
528 ment for bringing this subject to a satisfactory termination, and requesting that your Excellency may be furnished with the necessary powers to enter into negotiation for that purpose with His Imperial Majesty's Ministers at St. Petersburgh.

I avail myself of the opportunity of a Russian courier (of whose departure Count Lieven has only just apprised me) to send this note to your Excellency, and to desire that your Excellency will proceed to open the discussion with the Russian Minister upon the basis of the instruction to the Duke of Wellington.

I will not fail to transmit to your Excellency full powers for the conclusion of an agreement upon this subject, by a messenger whom I will dispatch to you as soon as I shall have collected any further information which it may be expedient to furnish to your Excellency, or to found any further instruction upon that may be necessary for your guidance in this important negotiation.

I am, &c.

(Signed) GEO. CANNING.

[Inclosure 11 in No. 382.]

Mr. Lyall to Mr. G. Canning.

SHIP-OWNERS' SOCIETY, NEW BROAD STREET,
November 19, 1823.

SIR: In the month of June last you were pleased to honour me with an interview on the subject of the Russian Ukase prohibiting foreign vessels from touching at or approaching the Russian establishments along the north-west coast of America therein mentioned, when you had the goodness to inform me that a representation had been made to that Government, and that you had reason to believe that the Ukase would not be acted upon; and very shortly after this communication I was informed, on what I considered undoubted authority, that the Russian Government had consented to withdraw that unfounded pretension.

The Committee of this Society being about to make their annual Report to the ship-owners at large, it would be satisfactory to them to be able to state therein that official advices have been received from St. Petersburgh that the Ukase had been annulled; and should that be the case, I have to express the hope of the Committee to be favoured with a communication from you to that effect.

I have, &c.

(Signed) GEORGE LYALL,
Chairman of Ship-owners' Committee.

[Inclosure 12 in No. 382.]

Lord F. Conyngham to Mr. Lyall.

FOREIGN OFFICE, *November 26, 1823.*

SIR: I am directed by Mr. Secretary Canning to acknowledge the receipt of your letter of the 19th instant, expressing a hope that the Ukase of September 1821 had been annulled.

Mr. Canning cannot authorize me to state to you in distinct terms that the Ukase has been annulled, because the negotiation to which it gave rise is still pending, embracing as it does many points of great intricacy as well as importance.

But I am directed by Mr. Canning to acquaint you that orders have been sent out by the Court of St. Petersburgh to their Naval Commanders calculated to prevent any collision between Russian ships and those of other nations; and in effect suspending the Ukase of September 1821.

I am, &c.

(Signed) F. CONYNGHAM.

[Inclosure 13 in No. 382.—Extract.]

Mr. G. Canning to Sir C. Bagot.

FOREIGN OFFICE, *January 20, 1824.*

A long period has elapsed since I gave your Excellency reason to expect additional instructions for your conduct in the negotiation respecting the Russian Ukase of 1821.

529 That expectation was held out in the belief that I should have to instruct you to combine your proceedings with those of the American Minister, and the framing such instructions was, of necessity, delayed until Mr. Rush should be in possession of the intentions of his Government upon the subject.

* * * * * * *

It remains, therefore, only for me to direct your Excellency to resume your negotiation with the Court of St. Petersburgh at the point at which it was suspended in consequence of the expected accession of the United States, and to endeavour to bring it as speedily as possible to an amicable and honourable conclusion.

The questions at issue between Great Britain and Russia are short and simple. The Russian Ukase contains two objectionable pretensions: first, an extravagant assumption of maritime supremacy; secondly, an unwarranted claim of territorial dominion.

As to the first, the disavowal of Russia is, in substance, all that we could desire. Nothing remains for negotiation on that head but to clothe that disavowal in precise and satisfactory terms. We would much rather that those terms should be suggested by Russia herself than have the air of pretending to dictate them. You will, therefore, request Count Nesselrode to furnish you with his notion of such a declaration on this point as may be satisfactory to your Government. That declaration may be made the preamble of the Convention of Limits.

* * * * * * *

[Inclosure 14 in No. 382.—Extract.]

Mr. G. Canning to Sir C. Bagot.

FOREIGN OFFICE, *July 24, 1824.*

The "Projet" of a Convention, which is inclosed in my No. 26, having been communicated by me to Count Lieven, with a request that his Excellency would note any points in it upon which he conceived any difficulty likely to arise, or any explanation to be necessary, I have received from his Excellency the Memorandum a copy of which is herewith inclosed.

Your Excellency will observe that there are but two points which have struck Count Lieven as susceptible of any question: the first, the assumption of the base of the mountains, instead of the summit, as the line of boundary; the second, the extension of the right of navigation of the Pacific to the sea beyond Behring's Straits.

* * * * * * *

As to the second point, it is, perhaps, as Lieven remarks, new. But it is to be remarked, in return, that the circumstances under which this additional security is required will be new also.

By the territorial demarcation agreed to in this "Projet," Russia will become possessed, in acknowledged sovereignty, of both sides of Behring's Straits.

The Power which could think of making the Pacific a *mare clausum* may not unnaturally be supposed capable of a disposition to apply the same character to a strait comprehended between two shores of which it becomes the undisputed owner. But the shutting up of Behring's Straits, or the power to shut them up hereafter, would be a thing not to be tolerated by England.

Nor could we submit to be excluded, either positively or constructively, from a sea in which the skill and science of our seamen has been and is still employed in enterprises interesting, not to this country alone, but the whole civilized world.

The protection given by the Convention to the American coasts of each Power may (if it is thought necessary) be extended in terms to the coasts of the Russian Asiatic territory; but in some way or other, if not in the form now presented, the free navigation of Behring's Straits, and of the seas beyond them, must be secured to us.

[Inclosure 15 in No. 382.—Extract.]

Mr. G. Canning to Mr. S. Canning.

FOREIGN OFFICE, *December 8, 1824.*

His Majesty having been graciously pleased to name you his Plenipotentiary for concluding and signing with the Russian Government a Convention, for terminating the discussions which have arisen out of the promulgation of the Russian
530 Ukase of 1821, and for settling the respective territorial claims of Great Britian and Russia on the north-west coast of America, I have received His

Majesty's commands to direct you to repair to St. Petersburgh for that purpose, and to furnish you with the necessary instructions for terminating the long-protracted negotiation.

The correspondence which has already passed upon this subject has been submitted to your perusal. And I inclose you a copy—

1. Of the "Projet" which Sir Charles Bagot was authorized to conclude and sign some months ago, and which we had every reason to expect would have been entirely satisfactory to the Russian Government.

2. Of a "Contre-Projet" drawn up by the Russian Plenipotentiaries, and presented to Sir Charles Bagot at their last meeting before Sir Charles Bagot's departure from St. Petersburgh.

3. Of a despatch from Count Nesselrode, accompanying the transmission of the "Contre-Projet" to Count Lieven.

In that despatch, and in certain marginal annotations upon the copy of the "Projet," are assigned the reasons of the alterations proposed by the Russian Plenipotentiaries.

In considering the expediency of admitting or rejecting the proposed alterations, it will be convenient to follow the Articles of the Treaty in the order in which they stand in the English "Projet."

You will observe in the first place that it is proposed by the Russian Plenipotentiaries entirely to change that order, and to transfer to the latter part of the instrument the Article which has hitherto stood first in the "Projet."

To that transposition we cannot agree, for the very reason which Count Nesselrode alleges in favour of it, viz., that the "Economie," or arrangement of the Treaty, ought to have reference to the history of the negotiation.

The whole negotiation grows out of the Ukase of 1821.

So entirely and absolutely true is this proposition, that the settlement of the limits of the respective possessions of Great Britain and Russia on the north-west coast of America was proposed by us only as a mode of facilitating the adjustment of the difference arising from the Ukase, by enabling the Court of Russia, under cover of the more comprehensive arrangement, to withdraw, with less appearance of concession, the offensive pretensions of that Edict.

It is comparatively indifferent to us whether we hasten or postpone all questions respecting the limits of territorial possession on the Continent of America; but the pretensions of the Russian Ukase of 1821 to exclusive dominion over the Pacific could not continue longer unrepealed without compelling us to take some measure of public and effectual remonstrance against it.

You will therefore take care, in the first instance, to repress any attempt to give this change to the character of the negotiation; and will declare without reserve that the point to which alone the solicitude of the British Government and the jealousy of the British nation attach any great importance is the doing away (in a manner as little disagreeable to Russia as possible) of the effect of the Ukase of 1821.

That this Ukase is not acted upon, and that instructions have been long ago sent by the Russian Government to their cruizers in the Pacific to suspend the execution of its provisions, is true; but a private disavowal of a published claim is no security against the revival of that claim: the suspension of the execution of a principle may be perfectly compatible with the continued maintenance of the principle itself, and when we have seen in the course of this negotiation that the Russian claim to the possession of the coast of America down to latitude 51° rests, in fact, on no other ground than the presumed acquiescence of the nations of Europe in the provisions of an Ukase published by the Emperor Paul in the year 1800, against which it is affirmed that no public remonstrance was made, it becomes us to be exceedingly careful that we do not, by a similar neglect on the present occasion, allow a similar presumption to be raised as to an acquiescence in the Ukase of 1821.

The right of the subjects of His Majesty to navigate freely in the Pacific cannot be held as matter of indulgence from any Power. Having once been publicly questioned, it must be publicly acknowledged.

We do not desire that any distinct reference should be made to the Ukase of 1821; but we do feel it necessary that the statement of our right should be clear and positive, and that it should stand forth in the Convention in the place which properly belongs to it, as a plain and substantive stipulation, and not be brought in as an incidental consequence of other arrangements to which we attach comparatively little importance.

This stipulation stands in the front of the Convention concluded between
531 Russia and the United States of America; and we see no reason why, upon similar claims, we should not obtain exactly the like satisfaction.

For reasons of the same nature we cannot consent that the liberty of navigation through Behring's Straits should be stated in the Treaty as a boon from Russia.

The tendency of such a statement would be to give countenance to those claims

of exclusive jurisdiction against which we, on our own behalf, and on that of the whole civilized world, protest.

No specification of this sort is found in the Convention with the United States of America; and yet it cannot be doubted that the Americans consider themselves as secured in the right of navigating Behring's Straits and the sea beyond them.

It cannot be expected that England should receive as a boon that which the United States hold as a right so unquestionable as not to be worth recording.

Perhaps the simplest course, after all, will be to substitute, for all that part of the "Projet" and "Contre-Projet" which relates to maritime rights, and to navigation, the first two Articles of the Convention already concluded by the Court of St. Petersburgh with the United States of America, in the order in which they stand in that Convention.

Russia cannot mean to give to the United States of America what she withholds from us, nor to withhold from us anything that she has consented to give to the United States.

The uniformity of stipulations *in pari materiâ* gives clearness and force to both arrangements, and will establish that footing of equality between the several Contracting Parties which it is most desirable should exist between three Powers whose interests come so nearly in contact with each other in a part of the globe in which no other Power is concerned.

This, therefore, is what I am to instruct you to propose at once to the Russian Minister as cutting short an otherwise inconvenient discussion.

This expedient will dispose of Article I of the "Projet," and of Articles V and VI of the "Contre-Projet."

The next Articles relate to the territorial demarcation.

* * * * * * *

With regard to the port of Sitka or New Archangel, the offer came originally from Russia, but we are not disposed to object to the restriction which she now applies to it.

We are content that the port shall be open to us for ten years, provided only that if any other nation obtains a more extended term, the like term shall be extended to us also.

We are content also to assign the period of ten years for the reciprocal liberty of access and commerce with each other's territories, which stipulation may be best stated precisely in the terms of Article IV of the American Convention.

These, I think, are the only points in which alterations are required by Russia, and we have no other to propose.

A "Projet," such as it will stand according to the observations of this despatch is inclosed, which you will understand as furnished to you as a guide for the drawing up of the Convention; but not as prescribing the precise form of words, nor fettering your discretion as to any alterations, not varying from the substance of these instructions.

It will, of course, strike the Russian Plenipotentiaries that by the adoption of the American Article respecting navigation, &c., the provision for an exclusive fishery of *two* leagues from the coasts of our respective possessions falls to the ground.

But the omission is, in truth, immaterial. The law of nations assigns the exclusive sovereignty of *one* league to each Power off its own coasts, without any specific stipulation, and though Sir Charles Bagot was authorized to sign the Convention with the specific stipulation of two leagues, in ignorance of what had been decided in the American Convention at the time, yet, after that Convention has been some months before the world, and after the opportunity of reconsideration has been forced upon us by the act of Russia herself, we cannot now consent, in negotiating *de novo*, to a stipulation which, while it is absolutely unimportant to any practical good, would appear to establish a contract between the United States and us to our disadvantage.

Count Nesselrode himself has frankly admitted that it was natural that we should expect, and reasonable that we should receive, at the hands of Russia, equal measure, in all respects, with the United States of America.

It remains only, in recapitulation, to remind you of the origin and principles of this whole negotiation.

532 It is not, on our part, essentially a negotiation about limits. It is a demand of the repeal of an offensive and unjustifiable arrogation of exclusive jurisdiction over an ocean of unmeasured extent; but a demand, qualified and mitigated in its manner, in order that its justice may be acknowledged and satisfied without soreness or humiliation on the part of Russia.

We negotiate about territory to cover the remonstrance upon principle.

But any attempt to take undue advantage of this voluntary facility we must oppose.

If the present "Projet" is agreeable to Russia, we are ready to conclude and sign the Treaty. If the territorial arrangements are not satisfactory, we are ready to postpone them, and to conclude and sign the essential part—that which relates to navigation alone, adding an Article stipulating to negotiate about territorial limits hereafter.

But we are not prepared to defer any longer the settlement of that essential part of the question; and if Russia will neither sign the whole Convention nor that essential part of it, she must not take it amiss that we resort to some mode of recording, in the face of the world, our protest against the pretensions of the Ukase of 1821, and of effectually securing our own interests against the possibility of its future operations.

[Inclosure 16 in No. 382.]

Mr. S. Canning to Mr. G. Canning.

ST. PETERSBURGH, *February 17 (March 1), 1825.*

SIR: By the messenger Latchford I have the honour to send you the accompanying Convention between His Majesty and the Emperor of Russia respecting the Pacific Ocean and north-west coast of America, which, according to your instructions, I concluded and signed last night with the Russian Plenipotentiaries.

The alterations which, at their instance, I have admitted into the "Projet," such as I presented it to them at first, will be found, I conceive, to be in strict conformity with the spirit and substance of His Majesty's commands. The order of the two main subjects of our negotiation, as stated in the preamble of the Convention, is preserved in the Articles of that instrument. The line of demarcation along the strip of land on the north-west coast of America, assigned to Russia, is laid down in the Convention agreeably to your directions, notwithstanding some difficulties raised on this point, as well as on that which regards the order of the Articles, by the Russian Plenipotentiaries.

The instance in which you will perceive that I have most availed myself of the latitude afforded by your instructions to bring the negotiation to a satisfactory and prompt conclusion is the division of the IIIrd Article of the new "Projet," as it stood when I gave it in, into the IIIrd, IVth, and Vth Articles of the Convention signed by the Plenipotentiaries.

This change was suggested by the Russian Plenipotentiaries, and at first it was suggested in a shape which appeared to me objectionable; but the Articles, as they are now drawn up, I humbly conceive to be such as will not meet with your disapprobation. The second paragraph of the IVth Article had already appeared parenthetically in the IIIrd Article of the "Projet," and the whole of the IVth Article is limited in its signification and connected with the Article immediately preceding it by the first paragraph.

With respect to Behring's Straits, I am happy to have it in my power to assure you, on the joint authority of the Russian Plenipotentiaries, that the Emperor of Russia has no intention whatever of maintaining any exclusive claim to the navigation of those straits, or of the seas to the north of them.

It cannot be necessary, under these circumstances, to trouble you with a more particular account of the several conferences which I have held with the Russian Plenipotentiaries, and it is but justice to state that I have found them disposed, throughout this latter stage of the negotiation, to treat the matters under discussion with fairness and liberality.

As two originals of the Convention prepared for His Majesty's Government are signed by the Plenipotentiaries, I propose to leave one of them with Mr. Ward for the archives of the Embassy.

I have, &c.

(Signed) STRATFORD CANNING.

UNITED STATES. No. 1 (1891).

FURTHER CORRESPONDENCE

RESPECTING THE

BEHRING SEA SEAL FISHERIES.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HER MAJESTY.

MARCH, 1891.

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FURTHER CORRESPONDENCE RESPECTING THE BEHRING SEA SEAL FISHERIES.

No. 1.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 17.)

WASHINGTON, *July 4, 1890.*

MY LORD: I have the honour to transmit a copy of the reply which I have received from the Secretary of State to my note of the 27th ultimo, of which a copy was inclosed in my despatch of the 27th ultimo.*

It appears to me that Mr. Blaine attaches an undue significance to the word "forthwith" in my above-mentioned note.

It is obvious that, if British sealers are to be requested not to enter Behring's Sea this season, on the ground of the proposed arbitration, there must be no delay in proceeding to that mode of adjustment, and it was, therefore, naturally made a condition not "that the President should forthwith accept a formal arbitration which your Lordship prescribes," but "that the two Governments should agree forthwith to refer to arbitration" the question of the legality of the seizures of British sealing-vessels.

That is the question of law in difference between the two Governments, and I am at a loss to understand why Mr. Blaine should complain of its being so stated.

I shall have the honour of addressing your Lordship in a separate despatch on the present situation of the question, which has been brought back again by the United States Government to a question of legal right.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 1.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, July 2, 1890.*

SIR: Your note of the 27th ultimo, covering Lord Salisbury's reply to the friendly suggestion of the President, was duly received. It was the design of the President, if Lord Salisbury had been favourably inclined to his proposition, to submit a form of settlement for the consideration of Her Majesty's Government which the President believed would end all dispute touching privileges in Behring's Sea. But Lord Salisbury refused to accept the proposal unless the President should "forthwith" accept a formal arbitration which his Lordship prescribes. The President's request was made in the hope that it might lead to a friendly basis of agreement, and he cannot think that Lord Salisbury's proposition is responsive to his suggestion. Besides, the

* See "United States No. 2 (1890)," p. 510.

answer comes so late that it would be impossible now to proceed this season with the negotiation the President had desired.

An agreement to arbitrate requires careful consideration. The United States is perhaps more fully committed to that form of international adjustment than any other Power, but it cannot consent that the form in which arbitration shall be undertaken shall be decided without full consultation and conference between the two Governments.

I beg further to say that you must have misapprehended what I said touching British claims for injuries and losses alleged to have been inflicted upon British vessels in the Behring's Sea by agents of the United States. My declaration was
2 that arbitration would logically and necessarily include that point. It is not to be conceded, but decided with other issues of far greater weight.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 2.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received August 7.)

MAGNOLIA, MASSACHUSETTS, *July 28, 1890.*

MY LORD: I have the honour to inclose copies of two notes which I addressed to the Secretary of State on receipt of your Lordship's despatches of the 20th June* and of the 21st June last,† and of the reply thereto which I have received from Mr. Blaine.

The reply appears as the last paper in the correspondence relating to the Behring's Sea fisheries which has just been sent to the House of Representatives.

Mr. Blaine contends that a Convention was actually agreed on between your Lordship and Mr. Phelps on the 25th February, 1888, except as to details, and he asks Great Britain to adhere to that Agreement. He states that the interposition of Canada, to which he attributes its abandonment by Her Majesty's Government, was, in the President's belief, "a grave injustice to the Government of the United States."

It would seem, however, that Mr. Phelps did not consider that any Agreement had resulted from the communications which passed between him and your Lordship on the 25th February, for on the 28th July, according to Mr. Blaine, he telegraphed to his Government expressing the "fear that owing to Canadian opposition we shall get no Convention."

It was never suggested at that period, or at any period between the close of the London negotiations of 1888 and the renewal of the negotiations in Washington, that any Agreement existed between the two Governments in relation to the fur-seal fisheries beyond a common desire to adopt all measures shown to be necessary for the preservation of the fur-seal species, which was said to be in danger of extinction.

If any such Agreement as is appealed to by Mr. Blaine did exist it is difficult to understand why the negotiation was renewed in Washington with the object of inquiring into the evidence and of endeavouring to arrive at a conclusion as to the extent of the alleged evils of pelagic sealing and the measures to be adopted for the preservation of the fur-seal species. On this point I would refer to Mr. Blaine's note to me of the 1st March, 1890, transmitting the evidence relied on by his Government in support of their contention, and of which a printed copy was inclosed in my despatch to your Lordship of the 15th April last.‡

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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* See "United States No. 2 (1890)," p. 491. † Ibid., p. 493. ‡ Ibid., p. 423.

[Inclosure 1 in No. 2.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *June 30, 1890.*

SIR: In your note of the 29th May last,* which I duly transmitted to the Marquis of Salisbury, there are several references to communications which passed between the two Governments in the time of your predecessor.

I have now received a despatch from Lord Salisbury,* copy of which I have the honour to inclose, pointing out that there is some error in the impressions which you have gathered from the records in the State Department with respect to those communications.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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3 [Inclosure 2 in No. 2.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *June 30, 1890.*

SIR: I have received a despatch from the Marquis of Salisbury, with reference to the passage in your note to me of the 4th instant, in which you remark that in 1888 his Lordship abruptly closed the negotiations because "the Canadian Government objected," and that he "assigned no other reason whatever."

In view of the observations contained in Lord Salisbury's despatch of the 20th June, of which a copy is inclosed in my last preceeding note of this date, his Lordship deems it unnecessary to discuss at any greater length the circumstances which led to an interruption of the negotiations of 1888.

With regard, however, to the passage of your note of the 4th instant above referred to, his Lordship wishes me to call your attention to the following statement made to him by Mr. Phelps, the United States Minister in London, on the 3rd April, 1888, and which was recorded in a despatch of the same date to Her Majesty's Minister at Washington:

"Under the peculiar political circumstances of America at this moment," said Mr. Phelps, "with a general election impending, it would be of little use, and, indeed, hardly practicable, to conduct any negotiation to its issue before the election had taken place."

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 3 in No. 2.]

Mr. Blaine to Sir J. Pauncefote.

BAR HARBOUR, MAINE, *July 19, 1890.*

SIR: I regret that circumstances beyond my control have postponed my reply to your two notes of the 30th June, which were received on the 1st instant, on the eve of my leaving Washington for this place. The note which came to hand on the forenoon of that day inclosed a despatch from Lord Salisbury, in which his Lordship, referring to my note of the 29th May, expresses "a wish to point out some errors" which he thinks I "had gathered from the records in my Office."

The purpose of Lord Salisbury is to show that I misapprehended the facts of the case when I represented him, in my note of the 29th May, as having given such "verbal assurances" to Mr. Phelps as warranted the latter in expecting a Convention to be concluded between the two Governments for the protection of the seal fisheries in Behring's Sea.

Speaking directly to this point, his Lordship says: "Mr. Blaine is under a misconception in imagining that I ever gave any verbal assurance or any promise of any kind with respect to the terms of the proposed Convention."

In answer to this statement, I beg you will say to Lord Salisbury that I simply quoted in my note of the 29th May the facts communicated by our Minister, Mr. Phelps, and our Chargé d'Affaires, Mr. White, who are responsible for the official

* Ibid., p. 475.

statements made to this Government at different stages of the seal fisheries negotiation.

On the 25th February, 1888, as already stated in my note of the 29th May, Mr. Phelps sent the following intelligence to Secretary Bayard, viz.: "Lord Salisbury assents to your proposition to establish, by mutual arrangement between the Governments interested, a close time for fur-seals, between the 15th April and the 1st November in each year, and between 160° of west longitude, and 170° of east longitude in the Behring's Sea. And he will cause an Act to be introduced in Parliament to give effect to this arrangement so soon as it can be prepared. In his opinion there is no doubt that the Act will be passed. He will also join the United States Government in any preventive measures it may be thought best to adopt by orders issued to the naval vessels of the respective Governments in that region."

Mr. Phelps has long been known in this country as an able lawyer, accurate in the use of words, and discriminating in the statement of facts. The Government of the United States necessarily reposes implicit confidence in the literal correctness of the despatch above quoted.

4 Some time after the foregoing conference between Lord Salisbury and Mr. Phelps had taken place, his Lordship invited the Russian Ambassador, M. de Staal, and the American Chargé, Mr. White (Mr. Phelps being absent from London), to a conference held at the Foreign Office on the 16th April, touching the Behring's Sea controversy. This conference was really called at the request of the Russian Ambassador, who desired that Russian rights in the Behring's Sea should be as fully recognized by England as American rights had been recognized in the verbal Agreement of the 25th February between Lord Salisbury and Mr. Phelps.

The Russian Ambassador received from Lord Salisbury the assurance (valuable also to the United States) that the protected area for seal life should be extended southward to the 47th degree of north latitude, and also the promise that he would have a draught [*sic*] Convention prepared for submission to the Russian Ambassador and the American Chargé."

Lord Salisbury now contends that all the proceedings at the Conference of the 16th April are to be regarded as only "provisional, in order to furnish a basis for negotiation, and without definitely pledging our Government." While the understanding of this Government differs from that maintained by Lord Salisbury, I am instructed by the President to say that the United States is willing to consider all the proceedings of the 16th April, 1888, as cancelled, so far as American rights may be concerned. This Government will ask Great Britain to adhere only to the Agreement made between Lord Salisbury and Mr. Phelps on the 25th February, 1888. That was an Agreement made directly between the two Governments, and did not include the rights of Russia. Asking Lord Salisbury to adhere to the Agreement of the 25th February, we leave the Agreement of the 16th April to be maintained, if maintained at all, by Russia, for whose cause and for whose advantage it was particularly designed.

While Lord Salisbury makes a general denial of having given "verbal assurances," he has not made a special denial touching the Agreement between himself and Mr. Phelps, which Mr. Phelps has reported in special detail, and the correctness of which he has since specially affirmed on more than one occasion.

In your second note of the 30th June, received in the afternoon of the 1st July, you call my attention (at Lord Salisbury's request) to a statement which I made in my note of the 4th June, to this effect:

"It is evident, therefore, that in 1888 Lord Salisbury abruptly closed the negotiation because, in his own phrase, 'the Canadian Government objected.'"

To show that there were other causes for closing the negotiation, Lord Salisbury desires that attention be called to a remark made to him by Mr. Phelps on the 3rd April, 1888, as follows: "Under the peculiar circumstances of America at this moment, with a general election impending, it would be of little use, and indeed hardly practicable, to conduct any negotiation to its issue before the general election has taken place."

I am quite ready to admit that such a statement made by Mr. Phelps might now be adduced as one of the reasons for breaking off the negotiation, if, in fact, the negotiation had been then broken off. But Lord Salisbury immediately proceeded with the negotiation. The remark ascribed to Mr. Phelps was made, as Lord Salisbury states, on the 3rd April, 1888. On the 5th April Mr. Phelps left London on a visit to the United States. On the 6th April Lord Salisbury addressed a private note to Mr. White to meet the Russian Ambassador at the Foreign Office, as he had appointed a meeting for the 16th April to discuss the questions at issue concerning the seal fisheries in Behring's Sea.

On the 23rd April there was some correspondence in regard to an Order in Council and an Act of Parliament.

On the 27th April Under-Secretary Barrington of the Foreign Office, in an official note, informed Mr. White that "the next step was to bring in an Act of Parliament."

On the 28th April Mr. White was informed that an Act of Parliament would be necessary in addition to the Order in Council, but that "neither Act nor Order could be draughted [*sic*] until Canada is heard from."

Mr. Phelps returned to London on the 22nd June and immediately took up the subject, earnestly pressing Lord Salisbury to come to a conclusion. On the 28th July, he telegraphed his Government expressing the "fear that owing to Canadian opposition we shall get no Convention."

On the 12th September Mr. Phelps wrote to Secretary Bayard that Lord Salisbury had stated that "the Canadian Government objected to any such restrictions (as those asked for the protection of the seal fisheries), and that until Canada's consent could be obtained, Her Majesty's Government was not willing to enter into the Convention."

I am justified, therefore, in assuming that Lord Salisbury cannot recur to the remark of Mr. Phelps as one of the reasons for breaking off the negotiation, because the negotiation was in actual progress for more than four months after the remark was made, and Mr. Phelps himself took large part in it.

Upon this recital of facts, I am unable to recall or in any way to qualify the statement which I made in my note of the 4th June to the effect that Lord Salisbury "abruptly closed the negotiation because the Canadian Government objected, and that he assigned no other reason whatever."

Lord Salisbury expresses the belief that even if the view I have taken of these transactions be accurate, they would not bear out the argument which I found upon them. The argument to which Lord Salisbury refers, is, I presume, the remonstrance which I made, by direction of the President, against the change of policy by Her Majesty's Government without notice and against the wish of the United States. The interposition of the wishes of a British province against the conclusion of a Convention between two nations which, according to Mr. Phelps, "had been virtually agreed upon except as to details," was, in the President's belief, a grave injustice to the Government of the United States.

I have, &c.

(Signed) J. G. BLAINE.

No. 3.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received August 25.*)

MAGNOLIA. *August 14, 1890.*

MY LORD: I had the honour to receive on the 11th instant your Lordship's despatch of the 2nd of this month,* relating to the Behring's Sea controversy, and I now beg to inclose herewith a copy of the note with which, in accordance with the instructions contained in that despatch, I forwarded a copy of the same to the Secretary of State.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 3.]

Sir J. Pauncefote to Mr. Blaine.

MAGNOLIA, *August 12, 1890.*

SIR: I transmitted without delay to the Marquis of Salisbury a copy of your note of the 30th June relating to the Behring's Sea controversy, and in which you comment upon a despatch from his Lordship, dated the 22nd May, of which I had the honour to leave a copy with you.

I have now received a despatch from Lord Salisbury, dated the 2nd August, in reply to those comments, and, in accordance with his Lordship's instructions, I have the honour to transmit to you herewith a copy of it and of its inclosures. You will observe that in the last paragraph, I am directed to state that Her Majesty's Gov-

* See "United States No. 2 (1890)," No. 382, p. 512.

ernment have no desire whatever to refuse to the United States any jurisdiction in Behring's Sea which was conceded by Great Britian to Russia, and which properly accrues to the present possessors of Alaska in virtue of Treaties or of the law of nations; and that if the United States Government, after examination of the evidence and arguments which are produced in that despatch, still differ from them as to the legality of the recent captures in that sea, Her Majesty's Government are ready to agree that the question, with the issues that depend on it, should be referred to impartial arbitration.

In that case, I am authorized to consider, in concert with you, the method of procedure to be followed.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

C No. 4.

Admiralty to Foreign Office.—(Received August 30.)

ADMIRALTY, *August 28, 1890.*

SIR: I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Secretary of State, copy of a letter from the Commander-in-chief on the Pacific Station, dated at Esquimalt, the 6th instant, together with copies of its inclosures, respecting the movements of sealers in Behring's Sea, &c.

I am, &c.

(Signed) R. D. AWDRY.

[Inclosure 1 in No. 4.—Extract.]

Rear-Admiral Hotham to Admiralty.

"WARSPITE," AT ESQUIMALT, *August 6, 1890.*

The American auxiliary steam-schooner "Mischief" and the British schooner "Aurora" having just returned from the sealing fleet, I took the opportunity of obtaining from them the following information as regards the state of affairs as far as they knew:

It is usual for the seal traders to charter a vessel to take the coast catch of sealskins from the sealers, and bring them south before the fleet enter the Behring's Sea. This year the schooner "Mischief" was chartered by a Syndicate representing twenty-five British vessels and four American. The American vessels are: "Henry Dennis," "San José," "Lily L.," and "Allie Alger." The "Mischief" sails under American colours, and left Victoria on the 14th June. She arrived at Sand Point, Little Koninski Island, Shumagin group, 4th July, where about thirty vessels were awaiting her.

On the afternoon of the 6th July nineteen vessels under British colours put to sea, followed by the "Mischief" to about 15 miles from the land, and between 6 P. M. of that day and 4 A. M. of the next 9,129 skins were transferred to the "Mischief."

Bad weather coming on, the schooners that had not completed the transfer of skins went into North-East Harbour (Little Koninski Island), remained there the 7th and 8th July, but wanting more shelter went through the 12-fathom channel between Shumagin and Simanoff to Sand Cove, in the north-east of Little Koninski Island. On the 10th July they again weighed and went outside 5 miles from the land and transferred the remainder of the skins, amounting in all to about 13,000.

The "Mischief" did not fall in with any of the American vessels she was chartered for, and the guarantee of 50 dollars which the Syndicate had each to deposit was returned to the owners on her arrival at Victoria.

While taking in the last of the skins the "Mischief" sighted the "Pathfinder," which schooner reported that she had sighted the American revenue-cutter "Rush" (Captain Coulson, with Lieutenant Tuttle as boarding officer, the same as last year) on the 9th July, heading for Sand Point.

There being still some more skins to come down, the schooner "Aurora" was chartered by Mr. Munsie, of Victoria, and Captain Cox, Secretary of the British Sealers

Association, to bring them to Victoria. The above-named gentlemen gave the following information to Captain Hulton, of HerMajesty's ship "Amphion."

The "Aurora" was not going to enter the Behring's Sea, as her hunters refused to do so on account of having had no pay for two years. It appears to be the custom for the hunters (Indians) to share according to the catch, and last year and a year or two before the catches had been seized, consequently the seal-hunters (Indians) had lost their money. The "Aurora" left two days after the "Mischief," and brought a letter from the British schooner "Ariel," which the captain had left at Sand Point for his owner, Captain Buckram, of Victoria The letter states he had been boarded by the Lieutenant of the "Rush," and two copies of the Proclamation of the American President handed him (copy inclosed). When asked by the boarding officer if he was going into the Behring's Sea, he replied he was, and Lieutenant Tuttle warned him, saying, "Then you had better look out."

A sick man from the schooner "Triumph" came down in the "Aurora" and reported the "Rush" at Sand Point on the 9th July distributing copies of the above Proclamation. She only remained about an hour and went out for the night, presumably for North-East Harbour, but returned next morning, not having found any schooners there. The "Aurora" arriving at Sand Point on the 12th July found the whole of the sealers and the cruizer had gone into the Behring's Sea.

From what I can gather here the principal number of sealing-vessels are owned by American subjects, though not registered in their names, notably one schooner, the "Mary Ellen;" also the schooners would probably enter and return from the Behring's Sea by the 172nd Pass so as to avoid Ounalaska. The British vessels were all warned by their owners not to go within 15 miles of the land whilst in the Behring's Sea.

I also wish to point out that there will probably be no more news from the sealers until their return, about the end of September, and they are so scattered while sealing that it is unlikely, if any seizures do take place, that I should hear of them until some time after.

I reported by telegram (of the 4th instant) the only seizure that has taken place is that of an American schooner, the "G. R. White," for contravention of the "Spirit and Arms Act of Alaska."

[Inclosure 2 in No. 4.]

By the President of the United States of America:

A Proclamation.

The following provisions of the Laws of the United States are hereby published for the information of all concerned.

Section 1956, Revised Statutes, Chapter III, Title 23, enacts that:

"No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offence, be fined not less than 200 dollars or more than 1,000 dollars, or imprisoned not more than six months, or both, and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such Regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur-seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law, nor shall he grant any special privileges under this section."

* * * * * * *

Section 3 of the Act entitled, "An Act to provide for the Protection of the Salmon Fisheries of Alaska," approved the 2nd March, 1889, provides that:

"Section 3. That Section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominion of the United States in the waters of the Behring's Sea, and it shall be the duty of the President at a timely season in each year to issue his Proclamation and cause the same to be published for one month at least in one newspaper (if any such there be) published at each United States port of entry on the Pacific coast, warning all persons against entering such waters for the purpose of violating the provisions of said section, and he shall also cause one or more vessels of the United States to diligently cruize said waters and arrest all persons and seize all vessels found to be or have been engaged in any violation of the Laws of the United States therein."

* * * * * * *

I had every reason to expect that, on receipt of my note of the 29t April and of the draft Convention which it inclosed, another meetin of the Conference would have been summoned to discuss the sufficienc or insufficiency of the proposals made by Her Majesty's Governmen But the negotiators were not invited to meet again, and my note o the April 29th, was not even answered.

On the 22nd May the public journals announced the rejection of th British proposals, and the issue of instructions to the United State revenue-cruizers of such a character as rendered necessary the intima tion conveyed in my note to Mr. Blaine of the following day (23r May),* that Her Majesty's Government would forward without delay formal protest against any interference with British vessels in Behring Sea outside of territorial waters.

Mr. Blaine's reply to that note is dated the 29th May,† and in th course of his observations on the protest of Her Majesty's Governmen he states that "no course was left to the United States or Russia" bu to reject the proposals contained in my note of the 29th April. That is the only formal intimation I have ever received that the proposed Convention was unacceptable to the United States Government.

The negotiation which was thus brought to so abrupt a termination had been restricted entirely to the question of a close season. All questions of legal right in controversy were purposely kept out of view, in the hope that they would finally disappear in an international agreement. That result, however, not having been attained, the United States Government have reverted to the claim of legal right to exclude all other nations from the fur-seal fishery in Behring's Sea. I have had some difficulty in clearly apprehending, even after all the correspondence which has taken place, the precise proposition of law on which the United States Government rely in justification of that claim.

The attitude of the late Cabinet was quite inconsistent with any serious reliance on such rights as are now asserted. Thus, Presiden Cleveland, in 1887, ordered the release of three British sealers seize in Behring's Sea, under Section 1956 of the Revised Statutes of th United States, which in general terms prohibits the killing of any fu seal "within the limits of Alaska Territory, or the waters thereof."

It is true that Secretary Bayard stated that such release was ordere "without conclusion of any questions which might be found to b involved;" but no further seizures were made in 1888, and the Pres dent proceeded to invite the Governments of Great Britain, Germany France, Russia, Sweden, and Japan to enter into an arrangement f the better protection of the fur-seal fisheries in Behring's Sea. Th amounted to an admission, in the face of Europe, that the object i view could not be attained consistently with the law of natio without an international agreement. Another equally signi cant fact was the refusal of the Senate of the United States t allow the insertion of a clause, proposed by the House of Represent tives, in the Act of the 2nd March, 1889, declaring that Section 19 of the Revised Statutes above referred to, and under which the seizur of British sealers on the high seas have been made, "include and appl to all the waters of Behring's Sea in Alaska embraced within th boundary-lines mentioned and described in the Treaty with Russia."

The clause, as it now stands, is as follows:

"Section 1956 of the Revised Statutes of the United States is hereb declared to include and apply to all the dominions of the United State

* Ibid., p. 473. † Ibid., p. 475.

in the waters of Behring's Sea." It will be seen, therefore, that the Senate declined to compromise itself by any such declaration as was proposed by the House of Representatives.

This is not surprising, considering the politico-physical geography of Behring's Sea. An eminent American jurist, President Angell, in an article in the "Forum" of November 1889, demonstrates with great force the fallacy of treating that sea as *mare clausum*. He points out that it measures 1,100 miles from east to west, and 800 miles from north to south, and that its area is more than twice that of the North Sea, and at least two-thirds as great as the Mediterranean. As regards its entrances, he remarks that it is open to the north by the straits, 36 miles wide, which form a passageway to the Arctic Ocean; and to the south by more than 300 miles of sea intervening between the most westerly island of Alaska and the Asiatic shore.

Another eminent American jurist, Professor Rayner, writing in the same sense to the "New York Evening Post" of the 27th June, 1889, observes that the narrowest of the channels between the western extremity of the Aleutian belt of islands belonging to the United States and the Russian territory of Kamtchatka "would admit of a fleet of 100 vessels sailing abreast in a single line, even if deployed with a quarter of a mile between each two vessels."

But even if Behring's Sea were "land-locked" within the meaning of a close sea, the severance in the unity of territorial possession which took place in 1867 by the cession of Alaska to the United States deprived it at once of one of the indispensable conditions of a "close sea."

Russia, by the Ukase of 1821, undoubtedly claimed that part of the Pacific Ocean as *mare clausum*, although she did not attempt to exclude foreign vessels entirely from it. As explained by M. Poletica, in his note to Mr. Adams of the 28th February, 1822, Russia, while claiming the right to do so, preferred only asserting her "essential rights" by prohibiting foreign vessels from approaching the coasts or islands within less than 100 Italian miles. It is clear, therefore, that Russia based her right to impose this lesser restriction on foreign vessels upon the larger right of total exclusion under the doctrine of *mare clausum*.

If I correctly understand the contention of the United States Government, it is this:

They are willing to discard the doctrine of *mare clausum* as applied to Behring's Sea, but they insist on the more limited right claimed by Russia to exercise jurisdiction over foreign vessels within 100 miles of the coasts and islands. It is obvious, however, that the Russian claim of jurisdiction within 100 miles disappeared with the larger claim of *mare clausum* from which it was derived, and that it cannot now be revived with any semblance of right, and for any purpose whatever. Such an appropriation of open sea, to use the language of Dr. Dana (7th edition of Wheaton, note to paragraph 187), "however long acquiesced in, is inadmissible in the nature of things. Whatever may be the evidence of the time or nature of the use, it is set aside as a bad usage which no evidence can make legal."

Hitherto the credit has been ascribed to the United States of having been the first nation to vindicate the freedom of the sea in respect of this very portion of the Pacific Ocean by the vigorous protest of Mr. J. Q. Adams against the whole of the claims, maritime and territorial, asserted by the Emperor Alexander I in his famous Ukase of 1821.

I think it will be a matter of general surprise to learn that, in the view of the United States Government, that protest was not intended

to apply to the claims of Russia in Behring's Sea. But, whatever opinion may be formed on that point, it is certain that the principles of the law of nations invoked by Mr. Adams apply with equal force whether to the north or to the south of the Aleutian Islands, and that the millions of fur seals which migrate annually to Behring's Sea do not, on entering its waters, become the exclusive property of the United States.

I will not presume to dwell longer on the legal aspect of the controversy, as the various questions of law to which it has given rise
11 have been fully and conclusively dealt with in your Lordship's despatches, of which copies have been communicated to Mr Blaine.

I will only observe, in conclusion, that if the United States Government persist in their endeavour to exclude British subjects from any participation in the fur-seal fishery in Behring's Sea, on the plea that such exclusion is necessary for the preservation of the fur-seal species, they assume a position which in my opinion will not bear the test of an impartial inquiry, and that, in defending such action on the ground of legal right, they raise questions of grave interest and concern to all nations which there can be no hope of bringing to a satisfactory solution otherwise than by a Conference of the Great Powers or by international arbitration.

No. 6.

Sir C. Lampson and Co. to Foreign Office.—(Received September 6.)

64, QUEEN STREET, *London, September 6, 1890.*

DEAR SIR: Since we addressed you, under date of the 6th November last,* on the Behring's Sea Fishery question, the number of fur seals annually visiting the Pribylov breeding islands has decreased to such an extent that the Company who hold the lease from the United States Government have only been able to secure, for trade purposes, 21,000, instead of the usual 100,000, skins, the United States Government Agent stationed on the islands prohibiting any further killing.

The total extermination of the fur-seal, which we foreshadowed in our last, has therefore come within measurable distance, and unless a close time can be arranged immediately, the animal will undoubtedly become extinct within a very short time.

We need scarcely point out that as the seals taken by the Canadian schooners at sea are the females and pups of those visiting the breeding islands, this industry will of necessity disappear with the extinction of the seal, and in confirmation of this we have just received a telegram from Victoria informing us that the seal fishery in the Behring's Sea has been a failure, the total catch being far below those of preceding years, although the fishing-vessels do not appear to have been molested by the United States' Government cruizers.

We are, &c.

(Signed) C. M. LAMPSON AND CO.

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* See "United States No. 2 (1890)," p. 338.

No. 7.

Foreign Office to Sir C. Lampson and Co.

FOREIGN OFFICE, *September 9, 1890.*

GENTLEMEN: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 6th instant, calling attention to the serious diminution which appears to have taken place in the number of fur-seals resorting to the Pribylov Islands.

I am, &c.

(Signed) T. H. SANDERSON.

No. 8.

Admiralty to Foreign Office.—(Received September 10.)

ADMIRALTY, *September 9, 1890.*

SIR: I am commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copy of a telegram dated the 8th September from the Commander-in-chief on the Pacific Station.

I am, &c.

(Signed) EVAN MACGREGOR.

13

[Inclosure in No. 8.—Telegraphic.]

Vice-Admiral Heneage to Admiralty.

VICTORIA, BRITISH COLUMBIA, *September 8, 1890.*

On the 23rd August four sealing schooners left Behring's Sea, reporting vessels homeward bound. Very bad catch on account of foggy weather. "Rush" steamed round one while hunting seals, and took no notice. No seizure made or any other interference with sealers.

No. 9.

Mr. Winton to the Marquis of Salisbury.—(Received September 13.)

32, HALTON STREET,
Toronto, Canada, September 3, 1890.

MY LORD: Permit me to say that I am pleased to be able to confirm your Lordship's representations in reply to Mr. Blaine's statements respecting the "possible destruction of the Behring's Sea fishery by over-fishing and by the irregular slaughter of seals" in that quarter.

The North Atlantic seal fishery is very similar in character to that of Behring's Sea, and the habits of the animal in both seas have a good deal in common. The dissimilarity consists physically only in the character of the fur, and locally in the fact that the Atlantic seal is taken, captured, or killed either in the water or upon the ice with which it is covered at the season when they are taken, whilst the Pacific seal is killed in the water or upon the adjacent islands.

May I ask your Lordship also to note the fact that when United States seal-hunters some years ago (in 1860–61, I think) undertook to compete in our Newfoundland seal fishery no objection whatever was raised by us to their doing so, or even to their outfitting in our ports subject to like duties upon their supplies and outfits which the local fisherman had to pay? It was our refusal to permit them to bring in their own supplies free of duty, whilst they outfitted in other respects from our ports, which induced them in a fit of mere dudgeon to abandon the fishery.

From the inclosed extract which I take from the "Toronto Empire" of the 28th July your Lordship will please to observe that I have taken some pains to tabulate the recorded annual catch of our North Atlantic seals from 1805 to 1885 inclusive. This is entirely distinct from the catch (of which no record is kept) mainly taken from the shore and within the bays and harbours of the island, which is in some years quite large, and would add very considerably to the number. And yet, with all this annual destruction, there is to-day no perceptible diminution of the number of seals. If these animals were not thus destroyed, and their produce utilized, the cod fishery, which to-day constitutes the main industry of the Colony, together with our Atlantic salmon and herring fisheries, would almost immediately be destroyed; for it is entirely upon these fish they prey, and the quantity annually consumed by them is almost incalculable.

I have, &c.

(Signed) ROBT. WINTON.

[Inclosure in No. 9.]

Extract from the "Toronto Empire" of July 28, 1890.

THE BEHRING'S SEA SEAL FISHERY.

32, HALTON STREET, *July 24, 1890.*

To the Editor of the "Empire."

SIR: I have read with much interest that portion of the official correspondence recently laid before the House of Commons on the above controversy between the British and the United States Governments, as published in your issue of "The Empire" this morning, and have been much struck by the contrast exhibited between the vigorous, logical, and perspicuous representations of Lord Salisbury and
13 the weak and disingenuous assumptions and propositions of the Minister of the United States.

I am glad to observe Lord Salisbury's recognition of the fact that "it requires something more than a mere declaration" upon the part of a Minister of the United States to bring one to a substantial conclusion as to facts involved in the discussion of *quæstiones vexatæ* between the two Governments. It is quite possible (as his Lordship intimates) that in some respects "Mr. Blaine has been misinformed," as it is equally clear that in others he is neither informed nor misinformed.

In reply to Mr. Blaine's statement respecting the "irregular slaughter of seals in the open waters of Behring's Sea," and the consequent possible total destruction of the fishery in a few years, Lord Salisbury deems it unnecessary to deal with that phase of the question, as it is proposed to submit all the conditions of pelagic sealing to the investigation of a Committee to be appointed by the two Governments. In the meantime, his Lordship is of opinion that if all such sealing was stopped, the creature would multiply at even a more extraordinary rate than at present, an opinion which every practical seal-hunter will readily indorse.

As compared with the North Atlantic seal fishery, the Behring's Sea fishery is quite a modern and recent industry. Before Behring discovered either the sea or the straits to which his name has been given the North Atlantic fishery was an important industry.

Both fisheries have some features in common, and the habits and characteristics of the animals in both waters are not very dissimilar, especially as regards conditions of propagation, gestation, &c.

The records of our eastern fishery have been very accurately tabulated for nearly a hundred years, and the results fully justify Lord Salisbury's opinion, and most emphatically confute Mr. Blaine's lamentations. In order to show how little justification there is for Mr. Blaine's prognostications, I may say that from 1805 to 1885, or within the past eighty years, no less than 28,000,000 seals have been captured in the North Atlantic, over and above those of which we have no record, and yet no perceptible reduction of the mass is annually or periodically visible.

The following Table gives the numbers taken in decades from 1805 to 1885:

The year ending 1815	1,090,000
" " 1825	1,950,624
" " 1835	4,312,673
" " 1845	4,991,176
" " 1855	4,388,280
" " 1865	3,957,376
" " 1875	4,145,300
" " 1885	3,981,360
Total to 1885	28,816,783

Just at this moment I have not at hand the figures for the past five years, but I think they will not vary materially from the averages given above for the preceding like period, except as they may be affected by the decreased outfit of sailing-vessels and the reduction of the number of steamers now employed in the fishery, several of which have been purchased by the United States Government and converted into ships of war, as, for example, the "Tigress," "Bear," "Thetis," and others, the names of which I am not advised of. Our old and discarded seal-hunters, after fifteen or twenty years' service and the loss of their first letter, make gallant warships for the United States; and, as a remarkable instance of the irony of fate, are occasionally employed on the Pacific in the chase and capture of their congeners engaged in occupations that were not (notwithstanding Mr. Blaine) *contra bonos mores* in earlier and happier days. Could these old stagers speak, how well they might exclaim, "To what base uses do we come at last."

But there is one point in this controversy to which I am desirous of calling the attention of our Representative at Washington, and of Lord Salisbury himself, and that is, that as long ago as 1860 the Americans themselves demanded of us the very right which we now demand of them, and then, as now, we admitted their right to a prosecution of the North Atlantic seal fishery, quite as much, nay more, a perquisite of our Atlantic provinces as is their Behring's Sea fishery of the Alaskan and Aleutian annexes. For several years the American steamer "Monticello" was dispatched to St. John's, Newfoundland, and was there fitted out, provisioned, manned, and equipped for the prosecution of a pelagic industry, the capture of seals in the deep waters adjacent to the coasts of that province. She, no doubt, took seals
14 within the 3-mile limit; outside that limit her right to take them was never questioned. She might have continued the prosecution of that industry to this day had her owners found men in the United States with sufficient daring and pluck and muscle for the work; but they were not to be had, and after one or two voyages the vessel was withdrawn, only in consequence of our refusal to permit her to outfit and man in our own ports, and to enter and clear her supplies, brought from the United States, free of the customs rates which our own people were subject to.

In this case the Americans then demanded, and we conceded, the same rights which we now demand and they refuse. More, they were actually permitted to fit out at our own ports upon the same conditions as our own outfitters were subject to. I leave these facts to Mr. Blaine, for his consideration, and trust they will not be lost sight of when the prospective Committee makes up its Report.

Yours, &c.

(Signed) R. WINTON.

No. 10.

Foreign Office to Mr. Winton.

FOREIGN OFFICE, *September 16, 1890.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 3rd instant, relating to the seal fisheries in the North Atlantic and in Behring's Sea, and I am to return to you his Lordship's thanks for your communication.

I am, &c.

(Signed) T. H. SANDERSON.

No. 11.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 22.)

MAGNOLIA, *September 11, 1890.*

MY LORD: I have the honour to transmit herewith copy of a Bill entitled, "A Bill to amend the Act entitled, 'An Act providing a Civil Government for Alaska.'"

The words in italics constitute the amendment by which jurisdiction is proposed to be conferred on the Supreme Court.

The rest is exactly as the Statute now stands.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 11.]

(51st Congress, 1st Session.—H. R. 11979.)

IN THE HOUSE OF REPRESENTATIVES.

SEPTEMBER 8, 1890.—Read twice, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. THOMPSON introduced the following Bill:

A Bill to amend the Act entitled, "An Act providing a Civil Government for Alaska."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 7 of the Act approved the 17th May, 1884, Chapter 53, be, and the same is hereby, amended to read as follows:

"Sect. 7. That the General Laws of the State of Oregon now in force are hereby declared to be the Law in said district so far as the same may be applicable, and not in conflict with the provisions of this Act or the Laws of the United States; and the sentence of imprisonment in any criminal case shall be carried out by confinement in the gaol or penitentiary hereinafter provided for. But the said District Court shall have exclusive jurisdiction in all cases in equity, or those involving a question of title to land, or mining rights, or the constitutionality of a Law and in all criminal offences which are capital. In all civil cases at common law, any issue of fact shall be determined by a jury, at the instance of either party, and an appeal shall lie in any case, civil or criminal, for the judgment of said Commissioners to the said District Court, where the amount involved in any civil case is 200 dollars or more, and in any criminal case where a fine of more than 100 dollars or imprisonment is imposed, upon the filing of a sufficient appeal bond by the party appealing, to be approved by the Court or Commissioner. Writs of error in criminal cases shall issue to the said District Court from the United States Circuit Court for the District of Oregon in the cases provided in Chapter 176 of the Laws of 1879, and the jurisdiction thereby conferred upon the Circuit Courts is hereby given to the Circuit Court of Oregon; *and the final Judgments or Decrees of said District Court may be reviewed by the said Circuit Court in civil cases in the same manner and with the like effect as final Judgments or Decrees of the United States District Court for the District of Oregon;* and the final Judgments or Decrees of said Circuit Court and District Court may be reviewed by the Supreme Court of the United States as in other cases."

No. 12.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 29.)

MAGNOLIA, MASSACHUSETTS, *September 19, 1890.*

MY LORD: With reference to my despatch of the 24th July last, I have the honour to inclose, in the form of a Memorandum, some observations on Mr. Blaine's note of the 30th June last. They are suggested

by certain passages in Mr. John Quincy Adams' despatches relating to the Russian Ukase of 1821, which do not appear in the correspondence on the subject laid before Congress in 1889, but which seem to me to confirm in a remarkable way the views expressed in your Lordship's despatch of the 2nd August.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 12.]

Note on Mr. Blaine's Interpretation of Mr. J. Quincy Adams' Despatch to Mr. Middleton of July 22, 1823.

Mr. Blaine, in his note of the 30th June, 1890, argues at great length to show that Mr. Adams, in his despatch to Mr. Middleton of the 22nd July, 1823, did not dispute the claim of Russia to exclusive jurisdiction over that part of the Pacific Ocean now known as Behring's Sea, but that he only protested against the Imperial Ukase of 1821 so far as it related to the claim of Russia to territorial dominion on the continent of America south of the 55th parallel, and to exclusive maritime jurisdiction south of the Aleutian Islands.

It is to be regretted that in the printed correspondence relating to the Imperial Ukase of 1821, presented to Congress in 1889, certain passages from Mr. Adams' despatches should have been omitted, as they are absolutely fatal to Mr. Blaine's contention.

In the first place, in a paper accompanying Mr. Adams' instructions to Mr. Middleton (but which paper does not appear in the printed correspondence above referred to), the following passage occurs with reference to Russia's claim of maritime jurisdiction from Behring's Strait to 45° 50′ on the Asiatic coast and to 51 on the American coast:

"The right of navigation and of fishing in the Pacific Ocean, even on the Asiatic coast north of latitude 45°, can as little be interdicted to the United States as that of traffic with the natives of North America."

President Angell, who cites the above passage in his article in the Forum of November 1889, makes the following comment upon it:

"After reading such language from Mr. Adams, can any one doubt what his answer would have been to a proposition by Russia to concede that the Pacific south
16 of the 55th parallel was an open sea, but that the part north of it formed a close sea over which she had exclusive jurisdiction?"

An equally important passage is also omitted in the correspondence presented to Congress. It is to be found in the despatch addressed by Mr. Adams to Mr. Rush, the United States Minister in London, inclosing copies of his instructions to Mr. Middleton, and directing him to confer freely on the subject with the British Government, both Governments being united against the Imperial Ukase of 1821. This despatch, which is of even date with the instructions to Mr. Middleton (22nd July, 1823), is referred to by Dr. Dana at p. 97 of his 8th edition of Wheaton's "International Law" (note on the Monroe doctrine appended to section 67), for the purpose of showing that the paternity of the Monroe doctrine belongs to Mr. Adams. But it has an important bearing on the point raised by Mr. Blaine, as it contains a clear and contemporaneous exposition by Mr. Adams himself of his views in relation to the freedom of navigation of the Pacific Ocean in its entirety.

In this despatch Mr. Adams, after contending that the entire continent was closed to any new establishment by any European Power, proceeds as follows:

"A necessary consequence of this state of things will be that the American Continents henceforth will no longer be subject to colonization. Occupied by civilized nations, they will be accessible to Europeans and each other on that footing alone, and the Pacific Ocean, in every part of it, will remain open to the navigation of all nations in like manner with the Atlantic."

Mr. Blaine, in his note of the 30th June, observes that Mr. Adams, at an interview with Baron Tuyl in July 1823, had foreshadowed the doctrine which four months later was asserted by President Monroe, in his Annual Message to Congress. But he makes no allusion to the passage above cited from Mr. Adams' despatch to Mr. Rush, probably because it is omitted from the text of the despatch, as printed at p. 212 of the Correspondence presented to Congress. It appears to me to confirm in a remarkable way the view of historians and jurists, that the purpose of Mr. Adams' despatch to Mr. Middleton of the 22nd July, 1823, was not only to oppose the territorial claim of Russia, but to vindicate the freedom of navigation of the Pacific Ocean "in every

part of it." Thus, Calvo states that the result of the Treaty of 1824, between Russia and the United States, was to secure freedom of navigation and fishery "dans toute l'étendue de l'Océan Pacifique" (vol. i, p. 415, 4th edit.). The United States Government cannot seriously contend that Behring's Sea was not a part of the Pacific Ocean in the contemplation of Mr. Adams, for not only was the term "Behring Sea" unknown at the time of the Treaty of 1824, but even in the Treaty of Cession of Alaska of the 20th June, 1867, the Island of Atton and Copper Island (of the Kormandorski group) are described as being in the "North Pacific Ocean." Moreover, in 1842, Russia refused to interfere with the operations of American whalers in Behring's Sea when pressed to do so by the Russian American Company, on the ground that the Treaty of 1824 gave to American citizens the right of fishing "over the whole extent of the Pacific Ocean."* Indeed, since the Treaty of 1824, and that with Great Britain of 1825, Russia has never attempted to exercise maritime jurisdiction over foreign vessels in Behring's Sea outside of the territorial waters. This alone should dispose of the claim of the United States to exercise such jurisdiction within 100 miles of the coast of Alaska, for it purports to have been derived from Russia in 1867, while it was renounced by Russia herself in 1824.

As regards the right of fishery which flows from the right of navigation, Calvo, in his work on International Law (4th edition, § 357), cites the claim of Denmark to the Greenland fisheries, based on long usage and on recognition by Treaties. Although she reduced her claim to seventy-five miles from the coast the other nations refused to admit her pretentions, on the ground that as no nation can acquire by usage or by Treaty any property in the high seas, therefore no nation can extend the limits of its territorial waters. Calvo adds:

"Si de pareilles dérogations aux principes universellement reconnus ont lieu, c'est qu'elles sont dictées par un intérêt maritime de premier ordre, notamment l'exploitation de pêches côtières d'une nature exceptionnelle, des bancs d'huitres ou autres coquillages; il faut qu'elles se renferment dans la limite de l'objet spécial qui les a fait adopter; et elles ont besoin pour devenir obligatoires, *d'être sanctionnées par des Conventions expresses et écrites.*"

J. P.

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17 No. 13.

Admiralty to Foreign Office.—(Received October 7.)

ADMIRALTY, *October 4, 1890.*

SIR: I am commanded by the Lords Commissioners of the Admiralty to transmit, for the perusal of the Secretary of State for Foreign Affairs, an extract of a letter from the Commander-in-chief on the Pacific Station, dated the 10th September, reporting the return of the sealing-schooners from Behring's Sea.

My Lords desire me to call particular attention to paragraph 6 of Rear-Admiral Hotham's letter, in which it is stated that two-thirds of the catch consisted of female seals, showing the necessity of some agreement to prevent the extermination of a valuable fishery.

I am, &c.

(Signed) EVAN MACGREGOR.

[Inclosure in No 13.—Extract.]

Rear-Admiral Hotham to Admiralty.

"WARSPITE," AT ESQUIMALT, *September 10, 1890.*

I have to request you will bring to the notice of the Lords Commissioners of the Admiralty this letter with reference to my telegram of the 8th instant.

I personally saw the masters of the sealing-schooners named below, and obtained from them the information herein reported:

Captain C. Cox, schooner "Sapphire."

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* Bancroft's "History of the Pacific States," vol. xxviii, p. 583.

Captain Petit, schooner "Mary Taylor."
Captain Hackett, schooner "Annie Seymour."
Captain W. Cox, schooner "Triumph."

They left the Behring's Sea on the 23rd August, and reached Victoria, British Columbia, in thirteen days. This season has been the worst they have experienced (Captain Cox, of the "Triumph," having been sealing for five years), and state it is due to the bad weather they experienced in July, which is the month they always make the biggest catch; as for twenty-one days, then, nothing but heavy fog was experienced, and they consequently could not get out their boats and canoes to hunt; they state they saw of plenty of seals whenever it cleared a little.

Mr. Hackett, of the "Annie Seymour," says he met the American cruizer "Rush," while his boats were round the schooner, actually engaged in sealing, and the cruizer steamed round them, but took no notice whatever; he had his colours flying, and after about half-an-hour she steamed away.

None of the other schooners they spoke with had met with any interference, or been spoken to by the cruizers. They knew of the "Rush" having been to Sand Head, Shumagin Group, and served a Proclamation on board the "Ariel," but, as they were at North-East Bay, they had not met her then.

They also mentioned that two-thirds of their catch consisted of female seals, but that after the 1st July very few indeed were captured "in pup," and that when sealing outside the Behring's Sea, round the coast, on the way up (where this year the heaviest catches were made), they acknowledged that seals "in pup" were frequently captured.

One captain stated he saw what he thought to be an English man-of-war, but as this could not have been, the vessel may have been the United States surveying-ship "Albatross," or a Russian man-of-war or cruizer, though I have no intelligence of any of the Siberian fleet being in those parts.

I might add that the sealers say they heard rumours of a new seal-rookery being formed on Middleton Island, which is outside the Behring's Sea, but American territory.

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No. 14.

Admiralty to Foreign Office.—(Received October 14.)

ADMIRALTY, *October 14, 1890.*

SIR: I am commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copy of a telegram, dated the 14th instant, from the Commander-in-chief on the Pacific Station.

I am, &c.

(Signed) EVAN MACGREGOR.

[Inclosure in No. 14.—Telegraphic.]

Rear-Admiral Hotham to Admiralty.

"WARSPITE," AT VICTORIA, *October 14, 1890.*

All the sealing schooners have returned.

No. 15.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *October 22, 1890.*

SIR: Your despatch of the 28th July last, inclosing a letter from Mr. Blaine under date the 19th July, reached me shortly before the close of the Session of Parliament. I did not answer it at the time, chiefly

because I did not think it desirable to mix up what seemed to me a controversy on a very unimportant and secondary point with the more serious questions which were in issue between the two Governments, and to which the correspondence then going on specially applied. I understand from you that Mr. Blaine has since asked whether you have received any answer to that despatch, and, therefore, I will make some observations upon it now, although it appears to me to contain little that effects any question of public importance.

I understand his complaint to be that, in a conversation with Mr. Phelps, reported by that gentleman in a despatch dated the 25th February, 1888, I had assented to the American proposition to establish, by mutual arrangement between the Governments interested, a close time for fur-seals between the 15th April and the 1st November in each year, and between 160° west longitude and 170° east longitude in the Behring's Sea; that I had undertaken to cause an Act to be introduced in Parliament to give effect to this arrangement as soon as it could be prepared, and that I subsequently receded from these engagements.

The conversation in question took place on the 22nd February, 1888, and my own record of it, written on the same day in a despatch to your predecessor, is as follows:

> Mr. Phelps then made a proposal on the bases embodied in Mr. Bayard's despatch of the 7th February, a copy of which accompanies my previous despatch of this day's date. Mr. Bayard there expresses the opinion that the only way of preventing the destruction of the seals would be by concentrated action on the part of the United States, Great Britain, and other interested Powers, to prevent their citizens or subjects from killing fur-seals with fire-arms or other destructive weapons north of 50° north latitude, and between 160° west longitude and 170° east longitude from Greenwich, during the period intervening between the 15th April and the 1st November. I expressed to Mr. Phelps the entire readiness of Her Majesty's Government to join in an Agreement with Russia and the United States to establish a close time for seal fishing north of some latitude to be fixed.

It results from these two records that Mr. Phelps understood me to accept *en bloc* the proposals of the Government of the United States; while my own intention and my own recollection of the conversation was, that I merely accepted the general principle of a close time north of some degree of latitude to be subsequently fixed. This difference in the two reports of the same conversation, though not in itself very wide, unfortunately covers the controversy between the two Governments, at least in its earlier stage; for the matter in dispute between us was the extent of the area and the season over which the close time was to extend, and not the expediency of a close time in principle. Mr. Blaine speaks of Mr. Phelps as having been long known in his country as an able lawyer, accurate in the use of words, and discriminating in the statement of facts. In that tribute to Mr. Phelps' high intel-
19 lectual qualities I join most unreservedly, as far as my own acquaintance with him enabled me to judge. But it is nothing unheard of that a man, however highly gifted in this respect, should in recording three days afterwards a conversation where no kind of note was taken, and no effort made to define the expressions of opinion which were exchanged, have slightly misconceived the extent to which assent was given to his own proposals. My recollection remains unchanged, that I never intended to assent and never did assent to the detailed proposals which were put forward on behalf of the United States, reserving my opinion on them for fuller consideration; but that I expressed the fullest concurrence on the part of Her Majesty's Government in the general principle on which those proposals proceeded, namely, the establishment of such close time as should be necessary to *preserve* the species of fur seals from extermination.

Beyond this issue on the particular question of fact, whether I did or did not assent to the proposals of the United States as unreservedly as Mr. Phelps imagined, there is a larger question in regard to which I must respectfully differ from the opinion expressed by Mr. Blaine. He speaks of these conversations as constituting an Agreement, and alludes to one of them under the name of the Agreement of the 25th February. I do not think that this was the object which the parties had in view in the conversation to which Mr. Blaine refers. They were not making binding stipulations or definitive Agreements. No word, as far as I remember, was uttered on one side or the other to indicate that so unusual a meaning was attached to the language used. They were, as such conversations usually are, preliminary conversations, intended to lead up to an Agreement. If the words uttered in a conversation at which no notes are taken are intended to constitute in any sense or degree an Agreement between persons taking part in the conversation, it seems to me essential that the subsequent record which contains the phrases which are to be construed as an Agreement should be drawn up with the concurrence of both the parties who have taken part in the conversation. Any other course must necessarily lead to misunderstanding.

If Mr. Blaine should revert to the matter again you may read to him this despatch, but I do not think the question is of sufficient importance to require any communication on your part unless he should refer specially to it.

I am, &c.

(Signed) SALISBURY.

No. 16.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 12.)

[Telegraphic.] P.

WASHINGTON, *November 12, 1890.*

I failed in my efforts to see Mr. Blaine until to-day, when I reminded him of your Lordship's proposal of arbitration in the Behring's Sea controversy, and pressed him for an answer in view of the approaching meeting of Parliament. He said that the delay in sending an answer was due to the pressure of home politics during the recess. He was, however, now engaged in writing me a note in answer to my note of the 12th August, in which I communicated to him your Lordship's despatch of the 2nd August. This note he said would be delivered before the meeting of Parliament or the reassembling of Congress, and would, he thought, advance matters. In the meantime any further discussion is deferred.

No. 17.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 17.)

WASHINGTON, *November 7, 1890.*

MY LORD: I have the honour to transmit herewith two copies of the transcript of record in the appeal case of the schooner "Sylvia Handy" *v.* the United States.

The "Sylvia Handy" is an American vessel, and her owners, who are American citizens, appeal against her condemnation and forfeiture by the District Court of Alaska for engaging in the fur-seal fishery in Behring's Sea 17 miles from land.

It will be contended on this appeal that the Act of Congress under which the seizure was made has no application outside of the territorial waters of Alaska; and that, if it purports to control the waters of Behring's Sea beyond 1 marine league from the shore, it is unconstitutional and abortive.

20 This appeal case was numbered 683 in the last term of the Supreme Court. It is now numbered 373, and it may possibly come up for hearing before the expiration of the present term. Although different considerations apply to the case of an American vessel, the Court may be called on to give a construction to the words in clause 1956 of the Revised Statutes of the United States, "within the limits of Alaska Territory or in the waters thereof," which will settle the question of law adversely to the contention of the United States Government, and irrespectively of the nationality of the vessel.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 17].

Transcript of Record.

SUPREME COURT OF THE UNITED STATES.

October Term, 1889. No. 683.

The Schooner "Sylvia Handy," her Tackle, Apparel, &c.; L. N. Handy, James Carthcu[illegible] J. N. Handy, and William Thomas, Owners, Appellants, v. *the United States.*

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.

(Filed June 16, 1888.)

In the United States District Court in and for the District of Alaska, United States of America.

To the Honourable LA FAYETTE DAWSON, *Judge of said District Court.*

The libel of information of M. D. Ball, Attorney for the United States for the District of Alaska, who prosecutes on behalf of the said United States, in the name and on behalf of the said United States, alleges and informs as follows, to wit:

That M. A. Healey, an officer in the Revenue Marine Service of the United States, duly commissioned by the President of the United States, in command of the revenue-cutter "Bear," and on special duty in the waters of the District of Alaska, heretofore, to wit, the 2nd day of September, A. D. 1887, within the limits of Alaska Territory and in the waters thereof, and within the Civil and Judicial District of Alaska, to wit, within the waters of that portion of Behring's Sea belonging to the United States and said district, on waters navigable from the sea by vessels of 10 or more tons burden, seized the schooner "Sylvia Handy," of San Francisco, California, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said Attorney.

The property is more particularly described as follows, to wit: The schooner "Sylvia Handy," of San Francisco, California, of $67\frac{79}{100}$ tons burden as per register, standing and running rigging, sails, chronometer and nautical instruments, clock, lamps, carpenters' tools, books, anchors, casks, cooking and table utensils, provisions, rifles and shot-guns and ammunition for the same, and 1,679 fur-seal skins, and all other property found upon or appurtenant to said schooner.

That M. A. Healy was then and there duly commissioned and authorized by the proper Department of the United States to make said seizure; that all said property was then and there seized as forfeited to the United States for the following causes:

That the said vessel and her captain, officers, and crew were then and there found engaged in killing fur-seals within the limits of Alaska Territory and in the said waters thereof, in violation of Section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Sitka, in said district, and turned over to the United States Marshal of this district, with the exception of the said 1,679 fur-seal skins, which latter were brought into the port of Ounalaska, in said Territory, and delivered into the keeping of J. B. Johnston, a special agent of the United States Marshal, subject to
21 the order of the Court, and all of said property is now within the Judicial District of Alaska, United States of America.

And said M. D. Ball, Attorney as aforesaid, further informs and alleges—

That on the 2nd day of September, A. D. 1887, and at divers other times during the month of August 1887, J. L. Carthcut and certain other persons, whose names are to the said United States Attorney unknown, who were then and there engaged on board of said schooner "Sylvia Handy" as seamen and seal-hunters, did, under the direction and by the authority of Jas. L. Carthcut, then and there master of said schooner, engage in the killing, and did kill, in the Territory and District of Alaska, and in the waters thereof, forty-two fur-seals, in violation of Section 1956 of the Revised Statutes of the United States in such cases made and provided.

That the said 1,679 fur-seal skins and other goods so seized on board the schooner "Sylvia Handy" constituted the cargo of said schooner at the time of the killing of said fur-seals and at the time of said seizure.

And said Attorney saith that all and singular the premises were and are true and within the Admiralty and maritime jurisdiction of the United States and of this honourable Court, and that by reason thereof and by force of the Statutes in such cases made and provided the aforementioned schooner, being a vessel of burden, and her said apparel, tackle, boats, cargo, and furniture, became and are forfeited to the use of the said United States.

Wherefore the said Attorney prays that the usual process and monition of this honourable Court issue in the behalf against said schooner and all said hereinbefore-described property, to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause on the return day of said process why said forfeiture should not be decreed, and that after due proceedings are had all said property to be adjudged, decreed, and condemned as forfeited to the use of the United States, and for such other relief as may be proper in the premises.

(Signed) M. D. BALL,
United States District Attorney for the District of Alaska.
(By A. K. DELANEY,
Special Assistant Attorney for the United States.)

Dated September 15, 1887.

Endorsed: H. No. 93. 1. United States District Court, District of Alaska. The United States against the schooner "Sylvia Handy." Libel of information. Filed the 15th September, 1887. H. E. Haydon, Clerk, by A. A. Meyer, Deputy Clerk.

In the United States District Court for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Claim.*

Comes now James L. Carthcut, one of the owners and master of the above-named schooner, intervening for his own interest and in behalf of those owning with him in the said schooner "Sylvia Handy," and appears before this honourable Court and makes claim to the said schooner, her tackle, apparel, furniture, and cargo, as the same are now attached by the United States Marshal for the District of Alaska, at the instance of the Revenue Department of the United States, and the said James L. Carthcut avers that he is part owner and master of said vessel, and was in possession of said vessel at the time of the seizure thereof, and that he in conjunction with L. N. Handy and Joseph Handy and William Thomas are the sole, only, and

bonâ fide owners of said schooner; that no other person or persons own any in therein.

Wherefore he prays this honourable Court to be allowed to defend accordin

(Signed) J. L. CARTH

Sworn to and subscribed this 15th day of September, A. D. 1887.

Before me,

(Signed) H. E. HAYDON,
Clerk, United States District Court.

(By A. A. MEYER, *Deputy Clerk.*)

[SEAL.]

(Signed) W. CLARK, *Proctor for Claimant.*

22 Endorsed: H. No. 93. 2. United States *v.* schooner "Sylvia Ha Claim. Filed the 19th September, 1887. H. E. Haydon, Clerk, by . Meyer, Deputy Clerk. W. Clark, proctor for claimant.

In the United States District Court for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Demurrer.*

At this time comes W. Clark, Esq., proctor for the claimant of the property ceeded against in the above cause, and demurs to the libel of information filed h The said claimant, by protestation, not confessing all or any of the matters i said information contained to be true, demurs thereto and says that the said m in manner and form as the same are in said information stated and set forth a sufficient in law for the United States to maintain their said action for the forf of the property aforesaid, and that the said claimant is not bound by law to a the same; wherefore the said claimant prays that the said information be dism with costs.

(Signed) W. CLARK, *Proctor for Own*

Endorsed: H. No. 93. 3. United States *v.* schooner "Sylvia Handy." Dem Filed the 19th September, 1887. H. E. Haydon, Clerk, by A. A. Meyer, Deputy W. Clark, proctor for claimants.

In the United States District Court for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Answer of James L. Carthcut, Master and Part Owner.*

And now comes James L. Carthcut, claimant as aforesaid, and for answer libel of information filed herein says:

1. He admits that M. A. Healy was an officer of the United States Revenue Service, duly commissioned, and that he was at the time the property pro against herein was seized in command of the United States revenue-cutter " and on official duty at the time the said seizure was made, and was then and duly commissioned and authorized by the proper Department of the United to make said seizure, but denies that said seizure was made within the wat Alaska Territory or within the Civil and Judicial District of Alaska, or in an tion of Behring's Sea belonging to the United States, or upon any other belonging to libellants navigable from the sea by vessels of 10 tons or over.

2. Denies that said vessel, her captain, officers, and crew, were then and found engaging in killing fur-seals within the limits of Alaska Territory, or waters thereof, or that they were then and there violating any Law of the States.

3. Denies that on the 2nd day of September, A. D. 1887, any other person sons did then and there, under the direction and authority of the said Jam Carthcut or any other person, or at all, kill any fur-seal within the District of A or in the waters thereof.

4. Denies that the property proceeded against in this cause or any portion t ever became forfeited to the United States. Wherefore the said claimant pray

the libel of information filed herein may be dismissed, and for any other just and equitable relief as to this Court may seem meet and proper.

(Signed) J. L. CARTHCUT.

Sworn to and subscribed this 16th day of September, A. D. 1887.
Before me,

(Signed) H. E. HAYDON,
Clerk, United States District Court.
(By A. A. MEYER, *Deputy Clerk.*)

[SEAL.]

(Signed) W. CLARK, *Proctor for Claimant.*

23 Endorsed: H. No. 93. 4. United States *v.* schooner "Sylvia Handy." Answer. Filed the 19th September, 1887. H. E. Haydon, Clerk, by A. A. Meyer, Deputy. W. Clark, proctor for claimant.

Return.

SITKA, *District of Alaska, sect.:*

Be it remembered that, in obedience to the annexed monition, I have attached the within-described property and now hold the same in my possession, subject to the order of this honourable Court; and the owners and claimants of said property having in writing, filed in Court this day, waived notice of publication and posting of the libel and seizure, I therefore have notified all persons claiming said property to be and appear before this District Court on the 19th day of September, 1887, at 3 o'clock P. M., then and there to make their claims and allegations in that behalf.

(Signed) BARTON ATKINS,
United States Marshal, District of Alaska.

SITKA, ALASKA, *September 19, 1887.*

United States District Court for the District of Alaska.

DISTRICT OF ALASKA, *sect.:*

The President of the United States of America to the Marshal of the District of Alaska, greeting:

Whereas a libel of information hath been filed in the District Court of the United States for the District of Alaska on the 15th day of September, in the year 1887, by Honourable M. D. Ball, United States Attorney for the district aforesaid, on behalf of the United States of America, against the schooner "Sylvia Handy," her tackle, apparel, boats, cargo, and 1,679 fur-seal skins, furniture, as forfeited to the use of the United States for the reasons set forth in said libel of information, and praying the usual process and monition of said Court in that behalf to be made, and that all persons interested in said schooner "Sylvia Handy," her tackle, apparel, boats, cargo, and said sealskins and furniture, &c., may be cited in general and special to answer the premises, and, all proceedings being had, that the said schooner "Sylvia Handy," her tackle, apparel, boats, cargo, said seal-skins and furniture, may, for the causes in the said libel of information mentioned, be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner "Sylvia Handy," her tackle, apparel, boats, cargo, and said sealskins and furniture, to detain the same in your custody until the further order of the Court respecting the same, and to give notice to all persons claiming the same or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information that they be and appear before the said Court, to be held in and for the District of Alaska on the 19th day of September, 1887, at 3 o'clock in the afternoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf; and what you shall have done in the premises do you then and there make returns thereof, together with this writ.

Witness, the Honourable La Fayette Dawson, Judge of said Court, and the seal thereof affixed at the city of Sitka, in the District of Alaska, this 15th day of September, in the year of our Lord 1887, and of the independence of the United States the 112th.

(Signed) H. E. HAYDON,
Clerk, United States District Court.

[SEAL.]

(By A. A. MEYER,
Deputy Clerk.)

Endorsed: H. 5. No. 93. In the United States District Court for the District of Alaska. The United States *v.* schooner "Sylvia Handy." Monition. Returned and filed the 19th *September, 1887.* H. E. Haydon, Clerk, by A. A. Meyer, Deputy.

24 In the United States District Court for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Waiver of Publication of Notice.*

And now comes W. Clark, Esq., proctor for the owners of the above-named schooner, as appears by their claim filed herein, and on behalf of said owners, and being authorized thereto, waives said owners' right to publication and posting of the notice of the libel and seizure of the property being proceeded against in this cause, and waives also time of hearing and announces himself ready to proceed to trial.

(Signed) W. CLARK, *Proctor for Claimants.*

Endorsed: H. 6. No. 93. United States *v.* schooner "Sylvia Handy." Waiver. Filed the 19th September, 1887. H. E. Haydon, Clerk, by A. A. Meyer, Deputy Clerk. W. Clark, proctor for owners.

In the United States District Court, District of Alaska.

In the Matter of the United States v. *Schooner "Sylvia Handy."*—No. 93.

At this time comes W. Clark, proctor for claimants, and moves the Court for leave to file a demurrer to the libel of information filed herein.

SEPTEMBER 19, 1887.

Endorsed: 7. Demurrer.

In the United States District Court, District of Alaska.

In the Matter of the United States v. *Schooner "Sylvia Handy."*—No. 93.

Now, at this time, come the parties above named, by their respective attorneys, Mr. A. K. Delaney for plaintiff, and M. W. Clark for defendant; and this cause coming on to be heard upon the demurrer of libel therein, and the Court being fully advised in the premises, it is considered and ordered that the demurrer be, and the same is hereby, overruled.

SEPTEMBER 19, 1887.

Endorsed: 8. Overruling Demurrer.

In the United States District Court, District of Alaska.

In the Matter of the United States v. *Schooner "Sylvia Handy."*

No. 93.—*Answer.*

And now comes James L. Carthcut, by W. Clark, Esq., master of the above-named schooner, and moves the Court for leave to file an answer to the libel of information herein.

It is considered and ordered by the Court that leave be granted.

SEPTEMBER 19, 1887.

Endorsed: 9. Answer.

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25 In the United States District Court, District of Alaska.

In the Matter of the United States v. *Schooner "Sylvia Handy."*

No. 93.—*Claim of Owners.*

Comes now W. Clark, proctor for claimants, and moves the Court for leave to file claim of master for owners.

It is considered and ordered by the Court that leave be granted.

SEPTEMBER 19, 1887.

Endorsed: 10. Claim.

In the District Court of the United States for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Evidence for Prosecution.*

By Mr. Delaney.—I am John C. Moore, Third Lieutenant of the revenue-cutter "Bear," and I was such on the 2nd September last. I was present at the seizure of the schooner "Sylvia Handy" on the 2nd. We were in latitude 54° 12′ north and longitude 166° 50′, 17 miles from Cape Cheerful. Captain Healy is Commander of the "Bear," R. M. S., U. S. I was boarding officer, sent by Captain Healy, in company with Alexander Wilson; boarded the vessel, and found she had forty-two seals on deck, unskinned. I reported the fact to Captain Healy, who ordered me to seize the vessel. I returned and told the captain that I had orders to seize the vessel. He said he would submit, but on protest. James Carthcut was in command of the vessel. Captain did not state how long he had been in Behring's Sea, but said he thought he had a perfect right to sealing in the sea if he was 3 miles from shore.

This was in waters from the sea navigable by vessels of 10 or more tons burden.

The schooner was taken to Ounalaska; the skins taken out and stored in the Government warehouse.

By Court.—There were 1,637 skins below, and 42 on deck.

Cross-examined by Mr. Clark.

The only authority you had for making this seizure were Captain Healy's orders?—Yes, Sir.

By whose order did you deliver those skins to Ounalaska?—Under Captain Healy's orders.

Who did you deliver them to?—I did not deliver them myself, but have a receipt for them.

Who did?—The Captain.

Were you in command of the vessel?—Yes, Sir.

He ordered you to deliver the skins in Ounalaska?—Yes, Sir.

You say you were ordered to deliver the skins in Ounalaska?—Yes, Sir; I delivered them to Captain Healy in Ounalaska.

You stated those skins were placed in the Government coal-house?—Yes, Sir; in charge of the United States Marshal.

What was his name?—Isaac Anderson.

Have you a receipt for the skins?—Yes, Sir; I have not got it here, but I can get it.

Counsel here produces papers for identification. Witness identifies them.

Redirect:

Mr. Delaney.—Counsel states that witness may correct any statement which he may have made during counsel's absence for a few minutes.

Witness states Johnson is Commissioner in Ounalaska, and the skins were delivered to the Commissioner, the United States Marshal being absent at the time.

26 The papers produced by counsel are as follows, to wit:

Register, No. 51; numeral 116,085, issued at Customs Office, San Francisco, 12th January, 1887; tonnage, 67.70 net; "Sylvia Handy" certificate; crew list certified 12th July, 1887, San Francisco; clearance from Customs Office, Victoria, British Columbia, 9th May, 1887; bound for North Pacific Ocean and Behring's Sea (bill of health accompanying); also certificate of United States Consul of the deposit of his clearance and other papers with the Consul at Victoria, British Columbia.

Endorsed: C. H. 11. No. 93. United States *v.* schooner "Sylvia Handy." Evidence. Filed 22nd September, 1887. H. E. Haydon, Clerk, by A. A. Meyer, Deputy Clerk.

In the United States District Court, District of Alaska.

In the Matter of the United States v. *Schooner "Sylvia Handy."*

No. 93.—*Findings and Conclusions of Law.*

This cause having been tried and submitted, the Court, from the evidence, finds the following facts and conclusions of law:

1. That on the 2nd day of September, 1887, and theretofore, the master and crew of the defendant's vessel were engaged in killing, and did kill, fur-seals in that portion of Behring's Sea ceded by Russia to the United States by the Treaty of March 1867, and within the waters of Alaska, in violation of Section 1956 of the Revised

Statutes of the United States, and that the promiscuous shooting of fur-be animals in the waters adjacent to the Islands of St. Paul and St. George, and in portion of Behring's Sea east of the 193rd degree of west longitude, has a tenc to frighten and prevent said animals from going upon those islands, as they been accustomed to do in the past.

2. That on the said 2nd day of September, 1887, said vessel, her furniture, apj tackle, cargo, and 1,679 fur-seal skins were seized in said waters by the commar officer of the United States revenue-cutter "Bear," then and there engaged i revenue marine service of the United States.

3. That said commanding officer was duly commissioned by the President o United States, and made such seizure under the direction and by the authori the Treasury Department of the United States.

4. That said property so seized was delivered by said commanding officer of cutter to the United States Marshal of the District of Alaska, and is now withi jurisdiction of this Court.

As conclusions of law the Court finds that the plaintiff is entitled to a decr forfeiture against said vessel, her tackle, apparel, furniture, cargo, and the 1,679 fur-seal skins.

(Signed) LA FAYETTE DAWSON, *District Jud*

Dated September 22, 1887.

Endorsed. C. H. 12. No. 93. In the United States District Court, Distri Alaska. United States *v.* schooner "Sylvia Handy." Findings and conclusio law. Filed the 22nd September, 1887. H. E. Haydon, Clerk.

In the United States District Court, District of Alaska.

United States v. *Schooner "Sylvia Handy," J. L. Carthout, L. N. Handy, Jas. H and Wm. Thomas.*

No. 93.—*Decree.*

The Marshal having returned on the monition issued to him in the above en action that, in obedience thereto, he had attached the said schooner "Sylvia Ha her tackle, apparel, boats, cargo, and furniture, and proctor for claiman
27 behalf of said owners, having waived said owners' right to publicatio posting of the notice of the libel and seizure, and also time of hearing, an given due notice to all persons claiming the same to appear before this Court o 19th day of September, 1887, at 3 o'clock P. M., at the District of Alaska, United S of America, then and there to interpose their claims and make their allegatic that behalf, and J. L. Carthcut, the captain of said vessel, having hereto filed a to all of said property in his and the behalf of L. N. Handy, and Jas. Handy Wm. Thomas, of San Francisco, California, and no other persons having appe and no other claims or allegations having been made or filed by any other pers persons, and the usual proclamation having been made, and said cause having heard this day by consent of parties on the pleadings and proofs, M. D. Ball, United States District Attorney, by A. K. Delaney, Esq., counsel in that b appearing as advocate for said libellant, and W. Clark, Esq., as advocate fo claimants, and said cause having been submitted to the Court for decision, an deliberation being had in the premises, and the Court having filed his findings o and conclusions of law herein, it is now thereupon ordered, sentenced, and de as follows:

1. That all persons whosoever other than said claimants be, and they are he decreed in contumacy and default.

2. That said schooner "Sylvia Handy," her tackle, apparel, boats, and furn and her cargo of 1,679 fur-seal skins, now in the custody of J. B. Johnston, U States Commissioner, a special agent of the Deputy United States Marshal at laska, subject to the order of the Court, and all property found upon or appurt to said schooner be, and the same are hereby, condemned as forfeited to the the United States.

3. That unless an appeal be taken against this Decree within the time limite prescribed by law and the Rules of the Court the usual writ of *venditioni expo* issued to the Marshal commanding him to sell all the said property and brin proceeds into this Court to be distributed according to law.

Costs to be taxed, and are awarded against said claimants.

(Signed) LA FAYETTE DAWSON, *District Ju*

Endorsed: H. 13. No. 93. United States *v.* schooner "Sylvia Handy." D Filed the 22nd September, 1887. H. E. Haydon, Clerk, by H. E. Haydon, *Deputy Clerk.*

In the United States District Court for the District of Alaska.

United States v. *American Schooner "Sylvia Handy."*

No. 93.—*Motion in Arrest.*

At this time comes W. Clark, proctor for claimants, and moves the Court to arrest the decree of forfeiture in said cause for the following reasons, to wit:

1. That the libel of information herein does not state facts sufficient in law to enable the United States to have and maintain this action for the forfeiture of the property seized herein.

2. That the evidence produced on part of the United States in this cause is not sufficient upon which to have a decree of forfeiture.

3. That from the evidence produced on the part of the United States it appears that this Court has no jurisdiction over the subject-matter of this cause.

4. That the Act of Congress under which the seizure herein was made is unconstitutional and *ultra vires*, in that it purports to give the United States jurisdiction over a portion of the high seas more than 3 marine leagues from its shores, and purports to establish an international boundary-line in mid-ocean with no definite terminal points and impossible to determine by absolute measurement or clearly define by marks.

Therefore claimants pray that said decree may be for ever rested and his cause dismissed.

(Signed) W. CLARK, *Proctor for Claimants.*

28 Endorsed: H. 14. No. 93. United States *v.* schooner "Sylvia Handy." Motion in arrest. Filed the 3rd October, 1887. H. E. Haydon, Clerk, by A. A. Meyer, Deputy Clerk. W. Clark, proctor for claimants.

In the United States District Court for the District of Alaska.

United States v. *American Schooner "Sylvia Handy."*

No. 93.—*Petition for Leave to appeal.*

And now comes W. Clark, proctor for claimants, and prays the Court for leave to appeal this cause to the Supreme Court of the United States or such other Court as may have appellate jurisdiction over the subject-matter of this cause.

(Signed) W. CLARK, *Proctor for Claimants.*

Endorsed: H. No. 93. 15. United States *v.* schooner "Sylvia Handy." Petition for leave to appeal. Filed the 9th December, 1887. H. E. Haydon, Clerk. W. Clark, proctor for claimants.

United States District Court, District of Alaska.

In the Matter of the United States v. *Schooner "Sylvia Handy."*—No. 93.

Petition filed by W. Clark, Esq., proctor for claimants, for leave to appeal.
It is considered and ordered by the Court that leave be granted.

(Signed) LA FAYETTE DAWSON, *District Judge.*

DECEMBER 9, 1887.

Endorsed: Petition to appeal. 16.

In the United States District Court for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Motion for Stay of Proceedings.*

And now comes W. Clark, proctor for claimants, and moves the Court to grant a stay of proceedings herein for three months from this date to enable claimants to bond the property seized herein if they desire to do so.

Dated at Sitka this 3rd day of October, A. D. 1887.

(Signed) W. CLARK, *Proctor for Claimants.*

Endorsed: H. No. 93. 17. United States *v.* schooner "Sylvia Handy." Motion for stay of proceedings. Motion filed and overruled by Court the 9th December, 1887. H. E. Haydon, Clerk. W. Clark, proctor for claimants.

In the United States District Court, District of Alaska.

United States v. *Schooner "Sylvia Handy," and L. N. Handy, J. Handy, J. L. Carthcut, and W. Thomas.*

No. 93.—*Affidavit on Appeal.*

UNITED STATES, *District of Alaska, ss.:*

Personally appeared before me the Undersigned, Clerk of the District Court in and for the District of Alaska, William S. Morrisey, who, upon being first duly sworn, upon his oath says he is the duly authorized agent for claimants in the above-
29 entitled cause; that said claimants purpose appealing said cause to the Supreme Court of the United States.

That they purpose prosecuting said appeal with due diligence and without unnecessary delay; that they are appealing said cause for the reason that they feel themselves aggrieved and injured by the decree of the District Court rendered herein on the 22nd day of September, A. D. 1887, at a special term of said Court.

That said appeal is not taken for vexatious delay or to hinder or delay the United States in obtaining the proceeds of the said decree of forfeiture rendered herein, but that the law and the facts may be reviewed by the said Superior Court, and that this appeal is made by affiant for and in behalf of said claimants.

(Signed) W. S. MORRISEY.

Subscribed to and sworn before me this 13th day of February, 1888.

[SEAL.] (Signed) H. E. HAYDON,
Clerk, United States District Court.

Endorsed: H. No. 93. 18. United States v. schooner "Sylvia Handy." Affidavit on appeal. Filed the 13th February, 1888. H. E. Haydon, Clerk.

In the United States District Court, District of Alaska.

The United States v. *the Schooner "Sylvia Handy," her Cargo, and L. N. Handy, J. Handy, James L. Carthcut, William Thomas, and W. S. Morrisey, Agent and Attorney-in-Fact.*

No. 93.—*Amended Petition for Leave to appeal.*

At this time comes M. P. Berry, proctor, intervening for and in behalf of the owners of the above-named vessel and cargo, through and by authority of W. S. Morrisey, Esq., the duly authorized agent of the said owners, and prays the honourable Court, by virtue of the powers vested under section 3 of the Organic Act creating the District of Alaska, passed by Congress of the United States, and approved by the President the 17th May, 1884, that leave be granted to amend the appeal heretofore allowed by this Court (at a special term holden the 9th December, 1887) [†] be granted, said owners and agent, defendants, to appeal and carry forward their cause direct to the Supreme Court of the United States of America.

That the above-named vessel and cargo, being of the appraised value of 12,673 dol. 25 c., to wit, that the schooner "Sylvia Handy" and cargo, was appraised by duly appointed and sworn appraisers of this Court in the sum of 4,350 dollars, and that the cargo, consisting of 1,679 fur-seal skins [†] in the sum of 8,323 dol. 25 c., making a total of 12,673 dol. 25 c.

The same being a sufficient sum to carry an appeal to the said Supreme Court of the United States for review.

(Signed) M. P. BERRY,
Proctor for W. S. Morrisey, Agent for Owners.

Endorsed: H. No. 93. 19. In the United States District Court, District of Alaska. United States v. schooner "Sylvia Handy." Amended petition for leave to appeal. Filed the 13th February, 1888. H. E. Haydon, Clerk. M. P. Berry, proctor.

In the United States District Court in and for the District of Alaska.

The United States, Plaintiff, v. *the Schooner "Sylvia Handy" and Cargo, Owners, and Agent, Defendant.*

No. 93.—*Motion for New Trial.*

At this time comes M. P. Berry, proctor, appearing for William S. Morrisey, duly authorized agent for the above-named defendants, and prays this honourable Court that defendants be allowed a rehearing in their cause.

30 That a day certain be named by the Court for a new trial.

That this motion is based upon the ground that the Congress of the United States, by the passage of certain Laws whereby we were subject to arrest and confiscation, did not only wrong us in our persons and goods, but that body did exceed their jurisdiction.

(Signed) M. P. BERRY,
Proctor for W. S. Morrisey, Agent for Owners.

Endorsed: H. No. 93. 20. In the United States District Court in and for the District of Alaska. United States *v.* schooner "Sylvia Handy." Motion for new trial. Filed the 14th February, 1888. H. E. Haydon, Clerk. M. P. Berry, Proctor.

In the United States District Court in and for the District of Alaska.

The United States v. *Schooner "Sylvia Handy."*

No. 93.—*Motion for Stay of Proceedings.*

Comes now M. P. Berry, Proctor, and moves the Court for stay of proceedings in the above-entitled cause pending appeal heretofore allowed to be taken by this honourable Court.

(Signed) M. P. BERRY,
Proctor for Defendants' Agent.

Endorsed: H. No. 93. 21. In the United States District Court in and for the District of Alaska. United States *v.* schooner "Sylvia Handy." Motion for stay of proceedings. Filed the 14th February, 1888. H. E. Haydon, Clerk. M. P. Berry, Proctor.

In the United States District Court in and for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*—No. 93.

It is considered and ordered by the court that the motion for a new trial and a stay of proceedings heretofore filed in this case be overruled.

Dated February 21, 1888.

Endorsed: 22.

In the United States District Court in and for the District of Alaska.

The United States v. *Schooner "Sylvia Handy" and Cargo, &c.; and L. N. Handy, J. Handy, J. L. Carthcut, and William Thomas.*

No. 93.—*Verification of Claim.*

Personally appeared before me in open Court, Wm. S. Morrisey, of Sitka, in the District of Alaska, and solemnly swears that he is the lawful bailee for the owners of the above-named schooner "Sylvia Handy" and cargo.

That he is duly authorized by said owners of the above-named vessel and cargo to enter into and file stipulations, with sureties, for the payment of all costs and expenses which shall be awarded against them by the decree of this Court, or upon an appeal by the Appellate Court.

(Signed) W. S. MORRISEY.

Done in open Court, this 19th day of February, 1888.

[SEAL.] (Signed) H. E. HAYDON, *Clerk.*

Endorsed: No. 93. 23. United States *v.* schooner "Sylvia Handy." Verification of claim. Filed the 20th February, 1888. H. E. Haydon, Clerk.

31 In the United States District Court in and for the District of Alaska.

United States v. *Schooner "Sylvia Handy" and Cargo, and L. N. Handy, James Carthcut, J. N. Handy, and William Thomas, Owners.*

No. 93.—*Appeal to the Supreme Court of the United States. In Admiralty.*

To the honourable Supreme Court of the United States of America.

The appeal of the above-named appellants respectively showeth that, on or about the 15th day of September, in the year 1887, the above-named libellants, the United States of America, exhibited their libel in the District Court of the United States for the District of Alaska against the appellants for the reasons set forth in said libel, that these appellants might be condemned to pay the demands of said libellants and costs in said libel mentioned.

That process issued out of said Court having been served on these appellants, they did, on or about the 19th day of September, in the year 1887, file their answer to said libel in the said District Court, praying that the said libel be dismissed with their costs in that behalf, as by reference to the said libel and the said answer may more fully appear.

That the said cause came on to be heard before the Honourable La Fayette Dawson, Judge of the said District Court, on or about the 22nd day of September, in the year 1887, upon the testimony and proofs adduced by the respective parties; and the said Judge, having advised thereon, did, on the 22nd day of September, in the year 1887, make his decree in said cause, whereby it was, among other things, decreed that the libellants in said cause recover against these appellants a decree of forfeiture against said vessel, her tackle, apparel, furniture, cargo, and 1,679 fur-seal skins, as by reference to the said decree may more fully appear; and these appellants are advised and insist that the said decree is erroneous, inasmuch as the honourable Court, at such sitting, did not declare the law or constitution by which such seizure and forfeiture of property was made.

Wherefore these appellants appeal from the whole of said decree of said District Court of the United States, and respectfully pray that the decree of the said District Court and the bill, answer, pleadings, evidence, and proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said clause anew, and that the said decree of the District Court and every part thereof may be reversed and a decree made dismissing said libel with costs, or such other decree as to the said Supreme Court shall seem just.

(Signed) M. P. BERRY, *Solicitor for Appellants.*

Dated March 20, 1888.

Endorsed: Copy. H. No. 93. 24. In the United States District Court in and for the District of Alaska. United States *v.* Schooner "Sylvia Handy." Appeal to the Supreme Court of the United States. In Admiralty. Filed the 23rd March, 1888. H. E. Haydon, Clerk. M. P. Berry, solicitor for appellants.

In the United States District Court in and for the District of Alaska.

United States v. *Schooner "Sylvia Handy" and Cargo.*

No. 93.—*Court in Error. Brief of Proctor.*

(Submitted without argument.)

Par. I. That the assumption of ownership by Russia of that portion of the Pacific Ocean generally known as the Behring's Sea was a fallacy, and the transfer of the same to the United States of America was a fraudulent exercise of such ownership and supremacy, which did not exist at the certain time of the sale and transfer of Alaska and the Aleutian Islands to the said United States of America.

32 Par. II. That Russia had no control over such sea or waters from the year 1825 until the claim of ownership when negotiating for the sale of the mainland of the Continent of North America and known and recognized as Alaska, and the chain of islands bearing the name of Aleutian, with other islands of the same group and certain islands within the Behring's Sea and the strait opening and leading into the North Arctic Ocean—1866 and 1867; that the destruction of many American ships in the said Behring's Sea and waters adjacent thereto by an unrecognized war-vessel as late as 1864 and 1865 met with no protest from the Russian authorities at that time within those seas (viz., the Kamschatka or Behring's Seas),

properly the North Pacific Ocean, is indisputable proof that such seas were not considered neutral waters by the Russian Government.

Par. III. That the Congress of the United States exceeded its Constitutional power by the passage of Laws to control waters of seas upon hypothetical lines drawn from land's end, off soundings, through open ocean, and ending on a parallel of latitude 70 marine leagues from land; that Laws to control the waters beyond the 1 marine league or 3 miles from the shore-line of each and every island, open reef of rocks, or mainland is abortive.

Par. IV. That the enactment of Laws by the Legislative Power of the United States that destroys a legitimate occupation, one of the industries of the people, is a tyrannical exercise of such power vested in that body by such peoples, and is unconstitutional.

Par. V. That the Honourable the District Judge, by the authority of the "Organic Act providing a Civil Government for Alaska," passed and approved the 17th May, 1884, being expressly clothed with the exclusive jurisdiction to pronounce upon the constitutionality of the Law by such Organic Act, is in error by sustaining the constitutionality of the law whereby the United States, as plaintiff, became entitled to a decree of forfeiture against these defendants, appellants, and their property.

(Signed) M. P. BERRY,
Proctor for W. S. Morrisey, Agent for Owner.

Endorsed: C. H. 25. No. 93. In the United States District Court, District of Alaska. United States *v.* schooner "Sylvia Handy." Brief of proctor. Filed the 23rd March, 1888. H. E. Haydon, Clerk. M. P. Berry, Proctor.

In the United States District Court for the District of Alaska.

United States v. *Schooner "Sylvia Handy," and L. N. Handy, J. N. Handy, J. L. Carthcut, and W. Thomas.*

No. 93.—*Order granting Appeal.*

Upon hearing and filing petition of M. P. Berry, proctor, intervening for and in behalf of the owners of the above-named vessel and cargo through and by authority of W. S. Morrisey, Esq., the duly authorized agent of the said owners, praying for an order allowing them to appeal this cause to the Supreme Court of the United States, and upon hearing and filing the affidavit of W. S. Morrisey, the duly authorized agent for claimants in the above-entitled cause, and no objection being raised on the part of the United States, and sufficient security having been given by said claimants that they will prosecute said appeal to effect, and upon being fully advised in the premises, it is ordered that said petition be granted and said claimants allowed to appeal this cause.

Done at Sitka, Alaska, this 23rd day of March, 1888.

(Signed) LA FAYETTE DAWSON, *District Judge.*

Endorsed: C. H. 26. No. 93. In the United States District Court, District of Alaska. United States *v.* schooner "Sylvia Handy." Order granting appeal. Filed the 23rd March, 1888. H. E. Haydon, Clerk.

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33 In the United States Circuit Court in and for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Consent that Vessel be discharged on Stipulation.*

The schooner "Sylvia Handy," her small boats, tackle, apparel, arms, ammunition, furniture, and cargo, consisting of 1,679 fur-seal skins, having been arrested on the process issued in this cause, we consent that on filing the usual stipulation entered into according to the Rules of the Court to appear, abide, and perform the decree in the sum of 12,673 dol. 25 c., and on filing a claim and on complying with the Rules of the Court as to the fees of the officers of Court the said schooner be discharged from custody and arrest.

(Signed) WHIT. M. GRANT, *Proctor for Libellant.*

Dated March 23, 1888.

Endorsed: 27. No. 93. In the United States District Court, District of Alaska. United States *v.* schooner "Sylvia Handy." Consent that vessel and cargo be discharged on stipulation. Filed the 23rd March, 1888. H. E. Haydon, Clerk. M. P. Berry, proctor for owners.

In the United States District Court in and for the District of Alaska.

The United States v. *Schooner "Sylvia Handy" and Cargo.*

No. 93.—*Bill of Exceptions.*

Be it remembered that on the trial of this cause, the same being the 22nd day of September, 1887, in the District Court of the United States for the District of Alaska, holden at Sitka, in the aforesaid district, and at the November term thereof, the Government, to sustain the issue on its part, offered the following evidence to the Court, viz.:

I am John C. Moore, Third Lieutenant of the revenue-cutter "Bear," and I was such on the 2nd September last. I was present at the seizure of the schooner "Sylvia Handy" on the 2nd. We were in latitude 54° 12′ north, and longitude 166° 51′, 17 miles from Cape Cheerful. Captain Healy is Commander of the "Bear," R. M. S., U. S. N. I was boarding officer, sent by Captain Healy in company with Alex. Wilson; boarded the vessel and found she had forty-two seals on deck unskinned. I reported the fact to Captain Healy, who ordered me to seize the vessel. I returned and told the captain that I had orders to seize the vessel. He said he would submit, but on protest. James Carthcut was in command of the vessel; captain did not state how long he had been in Behring's Sea, but said he thought he had a perfect right to sealing in the sea if he was 3 miles from shore.

This was in waters from the sea navigable by vessels of 10 or more tons burden.

The schooner was taken to Ounalaska, the skins taken out and stored in the Government warehouse.

By Court.—There were 1,637 skins below and 42 on deck.

Cross-examined by Mr. Clark.

The only authority you had for making the seizure were Captain Healy's orders?—Yes, Sir.

By whose orders did you deliver those skins to Ounalaska?—Under Captain Healy's orders.

Who did you deliver them to?—I did not deliver them myself, but have a receipt for them.

Who did?—The Captain.

Were you in command of the vessel?—Yes, Sir.

He ordered you to deliver the skins in Ounalaska?—Yes, Sir.

You say you were ordered to deliver the skins in Ounalaska?—Yes, Sir; I delivered them to Captain Healy, in Ounalaska.

34 You stated those skins were placed in the Government warehouse?—Yes, Sir; in charge of the United States Marshal.

What was his name?—Isaac Anderson.

Have you a receipt for the skins?—Yes, Sir. I have not got it here, but I can get it.

Counsel here produces papers for identification. Witness identifies them.

Redirect by Mr. Delaney.

Counsel states that witness may correct any statement which he may have made during counsel's absence for a few minutes.

Witness states Johnson is Commissioner in Ounalaska, and the skins were delivered to the Commissioner, the United States Marshal being absent at the time.

In the trial of the sealer cases Captain Sheppard, commander of the revenue-cutter "Rush," engaged in cruizing in the Behring's Sea, testified that shooting and the method of taking seals pursued by said seized vessels tended to drive them from their usual haunts and breeding and raising grounds in Behring's Sea, which evidence was used and considered in the trial and decision of this cause.

To which the defendants then and there objected, the objection being overruled and the evidence admitted. The defendants there and then excepted to the ruling of the Court, and the law, as declared by the Court, viz.:

This cause having been tried and submitted, the Court, from the evidence, finds the following facts and conclusions of law:

"1. That on the 2nd day of September, 1887, and theretofore, the master and crew of the defendants' vessel were engaged in killing, and did kill, fur-seals in that portion of Behring's Sea ceded by Russia to the United States by the Treaty of March 1867, and within the waters of Alaska, in violation of section 1956 of the Revised Statutes of the United States, and that the promiscuous shooting of fur-bearing animals in the waters adjacent to the Islands of St. Paul and St. George,

and in that portion of Behring's Sea east of the 193rd degree of west longitude, has a tendency to frighten and prevent said animals from going upon those islands, as they have been accustomed to do in the past.

"2. That on the said 2nd day of September, 1887, said vessel, her furniture, apparel, tackle, cargo, and 1,679 fur-seal skins were seized in said waters by the commanding officer of the United States revenue-cutter 'Bear,' then and there engaged in the Revenue Marine Service of the United States.

"3. That said commanding officer was duly commissioned by the President of the United States, and made such seizure under the direction and by the authority of the Treasury Department of the United States.

"4. That said property so seized was delivered by said commanding officer of said cutter to the United States Marshal of the District of Alaska, and is now within the jurisdiction of this Court."

As conclusions of law, the Court finds that the plaintiff is entitled to a decree of forfeiture against said vessel, her tackle, apparel, furniture, cargo, and the said 1,679 fur-seal skins.

(Signed) LA FAYETTE DAWSON, *District Judge.*

Endorsed: 28. No. 93. In the United States District Court in and for the District of Alaska. United States *v.* schooner "Sylvia Handy." Bill of Exceptions. Filed 23rd March, 1888. H. E. Haydon, Clerk.

In the United States District Court, District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Stipulation.*

It is hereby stipulated by and between W. M. Grant, United States District Attorney, acting for and on behalf of the United States; and M. P. Berry, proctor for W. S. Morrisey, duly appointed and constituted agent for the owners, that the following shall be omitted from the transcript hereunto annexed, namely:

All the exhibits referred to in the testimony of J. C. Moore.

(Signed) WHIT. M. GRANT,
United States District Attorney.

M. P. BERRY,
Proctor for W. S. Morrisey, Agent for Owners.

Endorsed: 29. No. 93. In the United States District Court in and for the District of Alaska. United States *v.* schooner "Sylvia Handy." Stipulation. Filed the 23rd March, 1888. H. E. Haydon, Clerk.

In the United States District Court in and for the District of Alaska.

In the Matter of the United States v. *Schooner "Sylvia Handy."*—No. 93.

Now comes M. P. Berry, proctor for claimant, and moves the Court for leave to file stipulation for the appraised value of the schooner "Sylvia Handy," her tackle, apparel, small boats, arms, ammunition, and cargo, consisting of 1,678 fur-seal skins.

Upon examination of the stipulations it is ordered by the Court that the same be approved, and whereupon the Court issued the following order, to wit:

The stipulation of the claimants herein with sufficient surety having been filed and approved, it is ordered that the above-named vessel and all her tackle, apparel, furniture, arms, ammunition, and cargo, consisting of 1,678 fur-seal skins, received in this port by the United States Marshal for the District of Alaska, be released, and that the same be delivered to William S. Morrisey, Esq., Attorney-in-fact for the claimants herein.

(Signed) LA FAYETTE DAWSON, *District Judge.*

MARCH 23, 1888.

Endorsed: 30. Journal entry.

In the United States District Court, District of Alaska.

In the Matter of the United States v. *Schooner "Sylvia Handy."*—No. 93.

Comes now M. P. Berry, proctor for claimants in the above-entitled cause, and prays that the amended petition for leave to appeal and the affidavit on appeal heretofore filed be considered by the Court.

MARCH 23, 1888.

Endorsed: 31. Journal entry.

In the United States District Court in and for the District of Alaska.

United States v. *Schooner "Sylvia Handy."*

No. 93.—*Stipulation for Costs given by Claimants on Appeal.*

Whereas a libel was filed in this Court in the within cause on the 15th day of September, A. D. 1887, by M. D. Ball, United States Attorney for the District of Alaska, against the schooner "Sylvia Handy," her tackle, apparel, furniture, and cargo, for the reasons and causes set forth and mentioned in said libel of information, and praying that the same may be condemned and sold:

And whereas a decree of forfeiture was, on the 22nd day of September, 1887, rendered against the said vessel, her tackle, apparel, furniture, and cargo, and against
L. N. Handy, J. L. Handy, James L. Carthcut, of San Francisco, California,
36 intervening as the sole and only claimants to said vessel, tackle, apparel, furniture, and cargo;

And whereas the said L. N. Handy, J. L. Handy, and J. L. Carthcut, claimants as aforesaid, are desirous of and purpose appealing from the said Decree of this Honourable Court to the Supreme Court of the United States:

Now, therefore, we, the undersigned stipulators, submitting ourselves to the jurisdiction of this Court, do acknowledge ourselves to be bound unto the United States of America, the said L. N. Handy, J. L. Handy, and James L. Carthcut, as principals, and W. S. Morrisey and David Wallace, as sureties, jointly and severally, in the sum of 300 dollars lawful money of the United States, conditioned that if the claimants above named shall pay all costs and expenses which shall be awarded against them by the final decree of the Supreme Court of the United States, then this stipulation to be void; otherwise to remain in full force and effect.

Witness our hands this 23rd day of March, 1888.

(Signed) W. J. MORRISEY.
DAVID WALLACE.

UNITED STATES, *District of Alaska, ss.:*

Personally appeared before me, H. E. Haydon, Clerk of the United States District Court for the District of Alaska, W. S. Morrisey, and David Wallace, who, being duly sworn, each for himself deposes and says that he is a resident and householder in said district, and that he is worth the sum set forth in the foregoing stipulation above his just debts and liabilities and property exempt from execution.

(Signed) W. S. MORRISEY.
DAVID WALLACE.

Sworn to and subscribed the 23rd day of March, 1888.

[Seal United States District Court, Alaska.] (Signed) H. E. HAYDON,
Clerk, United States District Court.

Endorsed: No. 93. 32. In the United States District Court in and for the District of Alaska. United States *v.* schooner "Sylvia Handy." Bond for costs on appeal to the Supreme Court of the United States. Filed and approved the 23rd March, 1888. H. E. Haydon, Clerk.

In the United States District Court in and for the District of Alaska.

I, Henry E. Haydon, Clerk of the District Court of the United States in and for the District of Alaska, do hereby certify that the foregoing copies of pleadings, papers, and journal entries in the cause of the United States *v.* the schooner "Sylvia Handy" and L. N. Handy and Co. have been by me compared with the originals thereof as the same appear on file and of record in this Court, and that the same are

full and true transcripts of said original pleadings, papers, and journal entries now in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of the said Court, at Sitka, in said district, this 2nd day of April, 1888.

[Seal United States District Court, Alaska.] (Signed) HENRY E. HAYDON, *Clerk.*

Endorsed on cover: Alaska D. C. U. S. No. 683. The schooner "Sylvia Handy," her tackle, apparel, &c.; L. N. Handy, James Carthcut, J. N. Handy, and William Thomas, owners, appellants, *v.* the United States. Filed the 16th June, 1888.

No. 18.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received December 27.*)

WASHINGTON, *December 16, 1890.*

MY LORD: In the last paragraph of your Lordship's despatch of the 22nd October I was instructed to read that despatch to the Secre-
37 tary of State, if he should revert to the subject of his note to me of the 19th July, but your Lordship added that you did not consider the controversy which it raised of sufficient importance to require any communication on my part unless Mr. Blaine should refer specially to it.

Although he has not done so, I observed that the subject was adverted to in an article in the "New York Tribune," purporting to give some information as to the further correspondence on the Behring's Sea question, which, as announced in the President's Message, will shortly be presented to Congress.

In these circumstances, I thought it desirable to communicate a copy of your Lordship's despatch to the Secretary of State, in order that it might be included in the further correspondence about to be published, and I called on Mr. Blaine on the 11th instant and placed a copy of the despatch in his hands, explaining that I did so in consequence of the article which had appeared in the "New York Tribune."

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 19.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received December 30.*)

WASHINGTON, *December 19, 1890.*

MY LORD: I have the honour to transmit herewith a printed copy of a note which I received on the 17th instant from the Secretary of State.

It contains the reply of the United States Government to your Lordship's despatch of the 2nd August last, offering on behalf of Her Majesty's Government to submit to arbitration the question of the legality of the recent seizures of British sealing-vessels in the Behring's Sea by United States revenue cruizers.

The voluminous character of this note precludes any attempt to give even a brief abstract of its contents within the limits of a despatch.

Its main feature, however, is that while the United States Government decline to submit to arbitration the real question in controversy,

namely, the legality of the seizures of British vessels in the Behring's Sea outside of territorial waters, they express their willingness to submit to arbitration certain historical and political questions which, in my humble opinion, would raise false issues, however pertinent they may be as supplying materials for argument in support of the American contention. For, even if all those questions were decided in favour of the United States, it would not follow that the seizures were justified, or that the claim of the United States to the control of any part of the Behring's Sea outside of territorial waters could be supported by international law.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 19.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, December 17, 1890.*

SIR: Your note of the 12th August, which I acknowledged on the 1st September, inclosed a copy of a despatch from the Marquis of Salisbury, dated the 2nd August, in reply to my note of the 30th June.

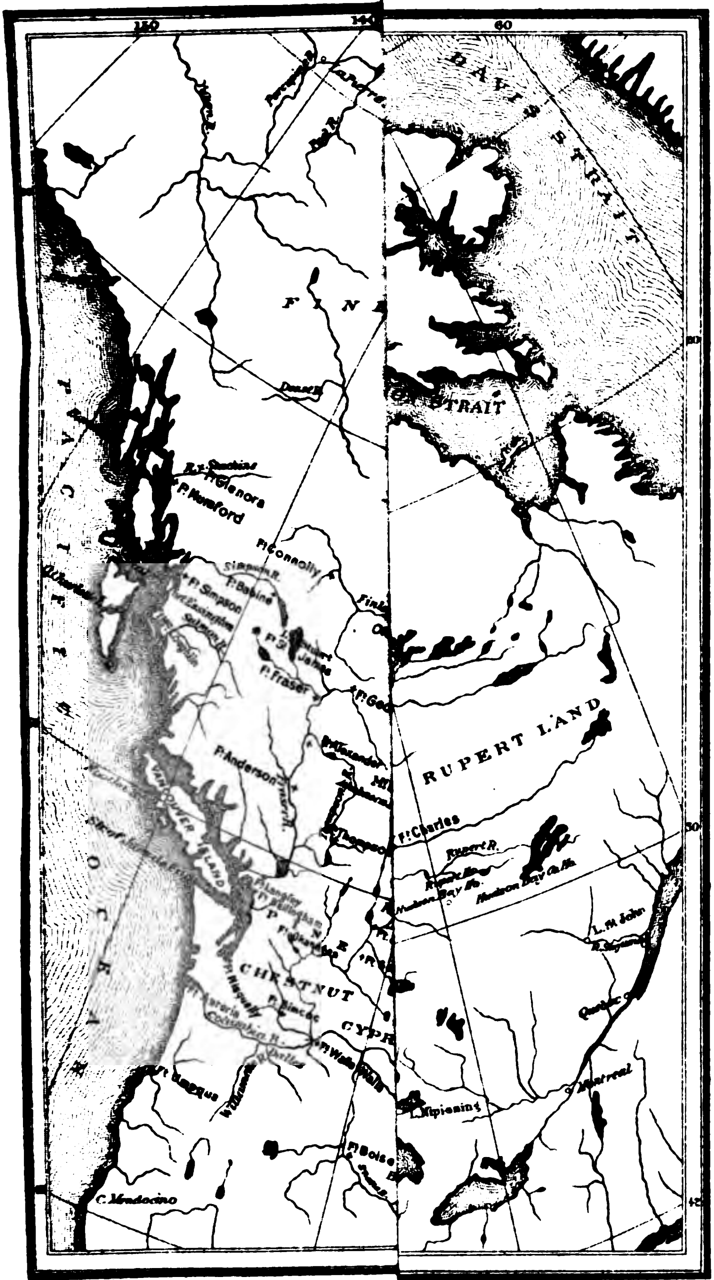
The consideration advanced by his Lordship have received the careful attention of the President, and I am instructed to insist upon the correctness and validity of the position which has been earnestly advocated by the Government of the United States in defence of American rights in the Behring's Sea.

Legal and diplomatic questions, apparently complicated, are often found, after prolonged discussion, to depend on the settlement of a single point. Such, in the judgment of the President, is the position in which the United States and Great Britain find themselves in the pending controversy touching the true construction of the Russo-American and Anglo-Russian Treaties of 1824 and 1825. Great Britain contends that the phrase "Pacific Ocean," as used in the Treaties, was intended to include, and does include, the body of water which is now known as the Behring's Sea. The United States contends that the Behring's Sea was not mentioned, or even referred to, in either Treaty, and was in no sense included in the phrase "Pacific Ocean." If Great Britain can maintain her position that the Behring's Sea at the time of the Treaties with Russia of 1824 and 1825 was included in the Pacific Ocean, the Government of the United States has no well-grounded complaint against her. If, on the other hand, this Government can prove beyond all doubt that the Behring's Sea, at the date of the Treaties, was understood by the three Signatory Powers
38 to be a separate body of water, and was not included in the phrase "Pacific Ocean," then the American case against Great Britain is complete and undeniable.

The dispute prominently involves the meaning of the phrase "north-west coast," or "north-west coast of America." Lord Salisbury assumes that the "north-west coast" has but one meaning, and that it includes the whole coast stretching northward to the Behring's Straits. The contention of this Government is that by long prescription the "north-west coast" means the coast of the Pacific Ocean south of the Alaskan Peninsula, or south of the 60th parallel of north latitude; or, to define it still more accurately, the coast, from the northern border of the Spanish possessions, ceded to the United States in 1819, to the point where the Spanish claims met the claims of Russia, viz., from 42° to 60° north latitude. The Russian authorities for a long time assumed that 59° 30′ was the exact point of latitude, but subsequent adjustments fixed it at 60°. The phrase "north-west coast," or "north-west coast of America," has been well known and widely recognized in popular usage in England and America from the date of the first trading to that coast, about 1784.* So absolute has been this prescription that the distinguished historian Hubert Howe Bancroft has written an accurate history of the north-west coast, which at different times, during a period of seventy-five years, was the scene of important contests between at least four Great Powers. To render the understanding explicit, Mr. Bancroft has illustrated the north-west coast by a carefully prepared Map. The Map

* The same designation obtained in Europe. As early as 1803, in a Map published by the Geographic Institute at Weimar, the coast from Columbia River (49°) to Cape Elizabeth (60°) is designated as the "*Nörd West Kuste.*"

ir J. Pauncefote of Dec. 17th 1890.



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will be found to include precisely the area which has been steadily maintained by this Government in the pending discussion. (For Map, see opposite page.)

The phrase "north-west coast of America" has not infrequently been used simply as the synonym of the "north-west coast," but it has also been used in another sense as including the American coast of the Russian possessions as far northward as the Straits of Behring. Confusion has sometimes arisen in the use of the phrase "north-west coast of America," but the true meaning can always be determined by reference to the context.

The Treaty between the United States and Russia was concluded on the 17th April, 1824, and that between Great Britain and Russia was concluded on the 28th February, 1825. The full and accurate text of both Treaties will be found in Inclosure (A). The Treaty between the United States and Russia is first in the order of time, but I shall consider both Treaties together. I quote the first Articles of each Treaty, for, to all intents and purposes, they are identical in meaning, though differing somewhat in phrase.

The Ist Article in the American Treaty is as follows:

"Article I. It is agreed that, in any part of the Great Ocean, commonly called the Pacific Ocean or the South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles."

The Ist Article in the British Treaty is as follows:

"Article I. It is agreed that the respective subjects of the High Contracting Parties shall not be troubled or molested, in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions specified in the following Articles."

Lord Salisbury contends that—

"*The Russian Government had no idea of any distinction between Behring's Sea and the Pacific Ocean, which latter they considered as reaching southward from Behring's Straits.* Nor throughout the whole of the subsequent correspondence is there any reference whatever on either side to any distinctive name for Behring's Sea, or any intimation that it could be considered otherwise than as forming an integral part of the Pacific Ocean."

The Government of the United States cordially agrees with Lord Salisbury's statement that throughout the whole correspondence connected with the formation of the Treaties there was no reference whatever by either side to any distinctive name for Behring's Sea, and for the very simple reason which I have already indicated, that the negotiation had no reference whatever to the Behring's Sea, but was
39 entirely confined to a "strip of land" on the north-west coast and the waters of the Pacific Ocean adjacent thereto. For future reference I call special attention to the phrase "strip of land."

I venture to remind Lord Salisbury of the fact that Behring's Sea was, at the time referred to, the recognized name in some quarters, and so appeared on many authentic Maps several years before the Treaties were negotiated. But, as I mentioned in my note of the 30th June, the same sea had been presented as a body of water separate from the Pacific Ocean for a long period prior to 1825. Many names had been applied to it, but the one most frequently used and most widely recognized was the Sea of Kamschatka. English statesmen of the period when the Treaties were negotiated had complete knowledge of all the geographical points involved. They knew that on the Map published in 1784 to illustrate the voyages of the most eminent English navigator of the eighteenth century the "Sea of Kamschatka" appeared in absolute contradistinction to the "Great South Sea" or the Pacific Ocean. And the Map, as shown by the words on its margin, was "prepared by Lieutenant Henry Roberts under the immediate inspection of Captain Cook."

Twenty years before Captain Cook's Map appeared, the "London Magazine" contained a Map on which the Sea of Kamschatka was conspicuously engraved. At a still earlier date—even as far back as 1732—Gvosdef, Surveyor of the Russian expedition of Shestakoff in 1730 (who, even before Behring, sighted the land of the American continent), published the sea as bearing the name of Kamschatka. Muller, who was Historian and Geographer of the second expedition of Behring in 1741, designated it as the Sea of Kamschatka in his Map published in 1761.

I inclose a list of a large proportion of the most authentic Maps published during the ninety years prior to 1825 in Great Britain, in the United States, the Netherlands, France, Spain, Germany, and Russia—in all 105 Maps—*on every one of which* the body of water now known as Behring's Sea was plainly distinguished by a name separate from the Pacific Ocean. On the great majority it is named the Sea of Kamschatka, a few use the name of Behring, while several other designations are used. The whole number, aggregating, as they did, the opinion of a large part of

the civilized world, distinguished the sea, no matter under what name, as altogether separate from the Pacific Ocean. (See Inclosure B.)

Is it possible, that with this great cloud of witnesses before the eyes of Mr. Adams and Mr. George Canning, attesting the existence of the Sea of Kamschatka, they would simply include it in the phrase "Pacific Ocean," and make no allusion whatever to it as a separate sea, when it was known by almost every educated man in Europe and America to have been so designated numberless times? Is it possible that Mr. Canning and Mr. Adams, both educated in the common law, could believe that they were acquiring for the United States and Great Britain the enormous rights inherent in the Sea of Kamschatka without the slighest reference to that sea, or without any description of its metes and bounds, when neither of them would have paid for a village house lot unless the deed for it should recite every fact and feature necessary for the identification of the lot against any other piece of ground on the surface of the globe? When we contemplate the minute particularity, the tedious verbiage, the duplications and the reduplications employed to secure unmistakable plainness in framing Treaties, it is impossible to conceive that a fact of this great magnitude could have been omitted from the instructions written by Mr. Adams and Mr. G. Canning as Secretaries for Foreign Affairs in their respective countries—impossible that such a fact could have escaped the notice of Mr. Middleton and Count Nesselrode, of Mr. Stratford Canning and M. Poletica, who were the negotiators of the two Treaties. It is impossible that, in the Anglo-Russian Treaty, Count Nesselrode, Mr. Stratford Canning, and M. Poletica could have taken sixteen lines to recite the titles and honours they had received from their respective Sovereigns, and not even suggest the insertion of one line, or even word, to secure so valuable a grant to England as the full freedom of the Behring's Sea.

There is another argument of great weight against the assumption of Lord Salisbury that the phrase "Pacific Ocean," as used in the Ist Article of both the American and British Treaties, was intended to include the waters of the Behring's Sea. It is true that, by the Treaties with the United States and Great Britain, Russia practically withdrew the operation of the Ukase of 1821 from the waters of the north-west coast on the Pacific Ocean; but the proof is conclusive that it was left in full force over the waters of the Behring's Sea. Lord Salisbury cannot have ascertained the value of the Behring's Sea to Russia when he assumed that, in the Treaties of 1824 and 1825, the Imperial Government had, by mere inclusion in another phrase, with apparent carelessness, thrown open all the resources and all the wealth of those waters to the citizens of the United States and to the subjects of Great Britain.

Lord Salisbury has, perhaps, not thought it worth while to make any examination of the money value of Alaska and the waters of the Behring's Sea at the time the Treaties were negotiated and in the succeeding years. The first period of the Russian-American Company's operations had closed before the Ukase of 1821 was issued. Its affairs were kept secret for a long time, but are now accurately known. The money advanced for the capital stock of the Company at its opening in 1799 amounted to 1,238,746 roubles. The gross sales of furs and skins by the Company at Kodiak and Canton from that date up to 1820 amounted to 20,024,698 roubles. The net profit was 7,685,000 roubles for the twenty-one years—over 620 per cent. for the whole period, or nearly 30 per cent. per annum.

Reviewing these facts, Bancroft, in his "History of Alaska," a standard work of exhaustive research, says:

"We find this powerful *monopoly* firmly established in the favour of the Imperial Government, many Nobles of high rank and several members of the Royal Family being among the shareholders."

And yet Lord Salisbury evidently supposes that a large amount of wealth was carelessly thrown away by the Royal Family, the Nobles, the courtiers, the capitalists, and the speculators of St. Petersburgh in a phrase which merged the Behring's Sea in the Pacific Ocean. That it was not thrown away is shown by the transactions of the Company for the next twenty years.

The second period of the Russian-American Company began in 1821 and ended in 1841. Within that time the gross revenues of the Company exceeded 61,000,000 roubles. Besides paying all expenses and all taxes, the Company largely increased the original capital, and divided 8,500,000 roubles among the shareholders. These dividends and the increase of the stock showed a profit on the original capital of 55 per cent. per annum for the whole twenty years—a great increase over the first period. It must not be forgotten that, during sixteen of these twenty years of constantly increasing profits, the Treaties which, according to Lord Salisbury, gave to Great Britain and the United States equal rights with Russia in the Behring's Sea, were in *full force*.

The proceedings which took place when the second period of the Russian American Company was at an end are thus described in Bancroft's "History of Alaska":

". . . 'In the variety and extent of its operations,' declare the members of the Imperial Council, 'no other Company can compare with it. In addition to a commercial and industrial monopoly, the Government has invested it with a portion of its own powers in governing the vast and distant territory over which it now holds control. A change in this system would now be of doubtful benefit. *To open our ports to all hunters promiscuously would be a death-blow to the fur trade*, while the Government, having transferred to the Company the control of the Colonies, could not now resume it without great expense and trouble, and would have to create new financial resources for such a purpose.'"

The Imperial Council, it will be seen, did not hesitate to call the Russian-American Company *a monopoly*, which it could not have been if Lord Salisbury's construction of the Treaty was correct. Nor did the Council feel any doubt that to open the ports of the Behring's Sea "to all hunters promiscuously would be a death-blow to the fur trade."

Bancroft says further:

. . . "This opinion of the Imperial Council, together with a Charter defining the privileges and duties of the Company, was delivered to the Czar, and received his signature on the 11th October, 1844. The new Charter did not differ in its main features from that of 1821, though the boundary was, of course, changed in accordance with the English and American Treaties. None of the Company's rights were curtailed, and the additional privileges were granted of trading with certain ports in China and of shipping tea direct from China to St. Petersburgh."

The Russian-American Company was thus chartered for a third period of twenty years, and at the end of the time it was found that the gross receipts amounted to 75,770,000 roubles, a minor part of it from the tea trade. The expenses of administration were very large. The shareholders received dividends to the amount of 10,210,000 roubles—about 900 per cent. for the whole period, or 45 per cent. per annum on the original capital. At the time the third period closed, in 1862, the Russian Government saw an opportunity to sell Alaska, and refused to continue the Charter of the Company. Agents of the United States had initiated negotiations for the transfer of Alaska as early as 1859. The Company continued, practically, however, to exercise its monopoly until 1867, when Alaska was sold by Russia to the United States. The enormous profits of the Russian American Company in the fur trade of the Behring's Sea continued under the Russian flag for more than forty years after the Treaties of 1824 and 1825 had been concluded. And yet Lord Salisbury contends that during this long period of exceptional profits from the fur trade Great Britain and the United States had as good a right as Russia to take part in these highly lucrative ventures.

American and English ships in goodly numbers during this whole period annually visited and traded on the north-west coast on the Pacific Ocean. And yet, of all these vessels of the United States and Great Britain, not one ever sought to disturb the fur fisheries of the Behring's Sea or along its coasts, either of the continent or of the islands. So far as known, it is believed that neither American nor English ships ever attempted to take one fur-seal at the Pribyloff Islands or in the open waters of the Behring's Sea during that period. The 100-mile limit was for the preservation of all these fur animals, and this limit was observed for that purpose by all the maritime nations that sent vessels to the Behring waters.

Can any one believe it to be possible that the maritime, adventurous, gain-loving people of the United States and of Great Britain could have had such an inviting field open to them forty years and yet not one ship of either nation enter the Behring's Sea to compete with the Russian-American Company for the inordinate profits which had flowed so steadily and for so long a period into their treasury from the fur trade? The fact that the ships of both nations refrained, during that long period, from taking a single fur-seal inside the shores of that sea is a presumption of their lack of right and their recognized disability so strong that, independently of all other arguments, it requires the most authentic and convincing evidence to rebut it. That English ships did not enter the Behring's Sea to take part in the catching of seals is not all that can be said. Her acquiescence in Russia's power over the seal fisheries was so complete that during the forty years of Russia's supremacy in the Behring's Sea (that followed the Treaties of 1824-25) it is not believed that Great Britain even made a protest, verbal or written, against what Bancroft describes as the "Russian monopoly."

A certain degree of confusion and disorganization in the form of the government that had existed in Alaska was the inevitable accompaniment of the transfer of sovereignty to the United States. The American title was not made complete until the money, specified as the price of the Treaty, had been appropriated by Congress and paid to the Russian Minister by the Executive Department of the Government of the United States. This was effected in the latter half of the year 1868. The

acquired sovereignty of Alaska carried with it by Treaty "all the rights, franchises, and privileges" which had belonged to Russia. A little more than a year after the acquisition, the United States transferred certain rights to the Alaska Commercial Company over the seal fisheries of Behring's Sea for a period of twenty years. Russia had given the same rights (besides rights of still larger scope) to the Russian-American Company for three periods of twenty years each, without a protest from the British Government, without a single interference from British ships. For these reasons this Government again insists that Great Britain and the United States recognized, respected, and obeyed the authority of Russia in the Behring's Sea; and did it for more than forty years after the Treaties with Russia were negotiated. It still remains for England to explain why she persistently violates the same rights when transfered to the ownership of the United States.

The IInd Article of the American Treaty is as follows:

"Article II. With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the High Contracting Powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the Governor or Commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the north-west coast."

The IInd Article of the British Treaty is as follows:

"Article II. In order to prevent the right of navigation and fishing, exercised upon the ocean by the subjects of the High Contracting Parties, from becoming the
42 pretext for an illicit commerce, it is agreed that the subjects of His Britannic Majesty shall not land at any place where there may be a Russian establishment, without the permission of the Governor or Commandant; and, on the other hand, the Russian subjects shall not land, without permission, at any British establishment on the north-west coast."

In the IInd Articles of the Treaties it is recognized that both the United States and Great Britain have establishments on the "north-west coast," and, as neither country ever claimed any territory north of the 60th parallel of latitude, we necessarily have the meaning of the north-west coast significantly defined in exact accordance with the American contention.

An argument, altogether historical in its character, is of great and, I think, conclusive force touching this question. It will be remembered that the Treaty of the 20th October, 1818, between the United States and Great Britain, comprised a variety of topics, among others, in Article III, the following:

"It is agreed that any country that may be claimed by either party on the north-west coast of America, westward of the Stony Mountains, shall, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present Convention, to the vessels, citizens, and subjects of the two Powers; it being understood that this Agreement is not to be construed to the prejudice of any claim which either of the two High Contracting Parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country, the only object of the High Contracting Parties, in that respect, being to prevent disputes and differences amongst themselves."

While this Article placed upon a common basis for ten years the rights of Great Britain and America on the north-west coast, it made no adjustment of the claims of Russia on the north, or of Spain on the south, which are referred to in the Article as "any other Power or State." Russia had claimed down to latitude 55° under the Ukase of 1799. Spain had claimed indefinitely northward from the 42nd parallel of latitude. But all the Spanish claims had been transferred to the United States by the Treaty of 1819, and Russia had been so quiet until the Ukase of 1821 that no conflict was feared. But after that Ukase a settlement, either permanent or temporary, was imperatively demanded.

The proposition made by Mr. Adams which I now quote shows, I think, beyond all doubt, that the dispute was wholly touching the north-west coast on the Pacific Ocean. I make the following quotation from Mr. Adams' instruction to Mr. Middleton, our Minister at St. Petersburgh, on the 22nd July, 1823:

"By the Treaty of the 22nd February, 1819, with Spain, the United States acquired all the rights of Spain north of latitude 42°; and by the IIIrd Article of the Convention between the United States and Great Britain of the 20th October, 1818, it was agreed that any country that might be claimed by either party on the north-west coast of America, westward of the Stony Mountains, should, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be

free and open, for the term of ten years from that date, to the vessels, citizens, and subjects of the two Powers, without prejudice to the claims of either party or of any other State.

"You are authorized to propose an Article of the same import for a term of ten years from the signature of a Joint Convention between the United States, Great Britain, and Russia."

Instructions of the same purport were sent by the same mail to Mr. Rush, our Minister at London, in order that the proposition should be completely understood by each of the three Powers. The confident presumption was that this proposition would, as a temporary settlement, be acceptable to all parties. But before there was time for full consideration of the proposition, either by Russia or Great Britain, President Monroe, in December 1823, proclaimed his famous doctrine of excluding future European Colonies from this continent. Its effect on all European nations holding unsettled or disputed claims to territory was to create a desire for prompt settlement so that each Power could be assured of its own, without the trouble or cost of further defending it. Great Britain was already entangled with the United States on the southern side of her claims on the north-west coast. That Agreement she must adhere to, but she was wholly unwilling to postpone a definite understanding with Russia as to the northern limit of her claims on the north-west coast. Hence a permanent Treaty was desired, and in both Treaties the "ten-year" feature was recognized—in the VIIth Article of the British Treaty and in the IVth Article of the American Treaty. But neither in the correspondence nor in the personal conferences that brought about the Agreement was there a single hint that the settlement was to include anything else whatever than the north-west coast on the Pacific Ocean, south of the 60th parallel of north latitude.

Fortunately, however, it is not necessary for the United States to rely on this suggestive definition of the north-west coast, or upon the historical facts above given. It is easy to prove from other sources that in the Treaty between the United States and Russia the coast referred to was that which I have defined as the "north-west coast" on the Pacific Ocean south of 60° north latitude, or, as the Russians for a long time believed it, 59° 30′. We have in the Department of State the originals of the Protocols between our Minister at St. Petersburgh, Mr. Henry Middleton, and Count Nesselrode, of Russia, who negotiated the Treaty of 1824. I quote, as I have quoted in my note of the 30th June, a Memorandum submitted to Count Nesselrode by Mr. Middleton as a part of the 4th Protocol:

"Now, it is clear, according to the facts established, that neither Russia nor any other European Power has the right of dominion upon the Continent of America between the 50th and 60th degrees of north latitude.

"Still less has she the dominion of the adjacent maritime territory, or of the sea which washes these coasts, a dominion which is only accessory to the territorial dominion.

"Therefore, she has not the right of exclusion or of admission on these coasts, nor in these seas, which are free seas.

"The right of navigating all the free seas belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

"The United States have exercised navigation in the seas, and commerce upon the coasts above mentioned, from the time of their independence; and they have a perfect right to this navigation and to this commerce, and they can only be deprived of it by their own act or by a Convention."

Mr. Middleton declares that Russia had not the right of dominion *"upon the Continent of America between the 50th and 60th degrees of north latitude."* Still less has she the dominion of "the adjacent maritime territory or the *sea which washes these coasts.*" He further declares that Russia had not the "right of exclusion or of admission on *these* coasts, nor in *these* seas, *which are free seas*"—that is, the coast and seas between the 50th and 60th degrees of north latitude *on the body of the continent.*

The following remark of Mr. Middleton deserves special attention:

"The right of navigating all the *free seas* belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence."

This earnest protest by Mr. Middleton, it will be noted, was against the Ukase of Alexander which proposed to extend Russian sovereignty over the Pacific Ocean as far south as the 51st degree of latitude, at which point, as Mr. Adams reminded the Russian Minister, that ocean is 4,000 miles wide. It is also to be specially noted that Mr. Middleton's double reference to "the free seas" would have no meaning whatever if he did not recognize that freedom on certain seas had been restricted. He could not have used the phrase if he had regarded all seas in that region as "free seas."

In answer to my former reference to these facts (in my note of the 30th June) Lord Salisbury makes this plea:

"Mr. Blaine states that when Mr. Middleton declared that Russia had no right of exclusion on the coasts of *America between* the 50th and 60th degrees of north lati-

tude, nor in the seas which washed those coasts, he intended to make a distinction between Behring's Sea and the Pacific Ocean. But on reference to a Map it will be seen that the 60th degree of north latitude strikes straight across Behring's Sea, leaving by far the larger and more important part of it to the south; so that I confess it appears to me that by no conceivable construction of his words can Mr. Middleton be supposed to have excepted that sea from those which he declared to be free.

If his Lordship had examined his Map somewhat more closely, he would have found my statement literally correct. When Mr. Middleton referred to "the Continent of America between the 50th and 60th degrees of north latitude," it was impossible that he could have referred to the coast of Behring's Sea, for the very simple reason that the 50th degree of latitude is altogether south of the Behring's Sea. The fact that the 60th parallel "strikes straight across the Behring's Sea" has no more pertinence to this discussion than if his Lordship had remarked that the same parallel passes through the Sea of Okhotsk, which lies to the west of Behring's Sea, just as the arm of the North Pacific lies to the east of it. Mr. Middleton was denying Russia's dominion upon a continuous line of coast upon the continent between two specified points and over the waters washing that coast. There is such a continuous line of coast between the 50th and 60th degrees on the Pacific Ocean; but there is no such line of coast on the Behring's Sea, even if you measure from the southernmost island of the Aleutian chain. In a word, the argument of Lord Salisbury on this point is based upon a geographical impossibility. (See illustrative Map on opposite page.)

But, if there could be any doubt left as to what coast and to what waters Mr. Middleton referred, an analysis of the last paragraph of the 4th Portocol will dispel that doubt. When Mr. Middleton declared that "*the United States have exercised navigation in the seas, and commerce upon the coasts above mentioned, from the time of their independence,*" he makes the same declaration that had been previously made by Mr. Adams. That declaration could only refer to the north-west coast as I have described it, or as Mr. Middleton phrases it, "the Continent of America between the 50th and 60th degrees of north latitude."

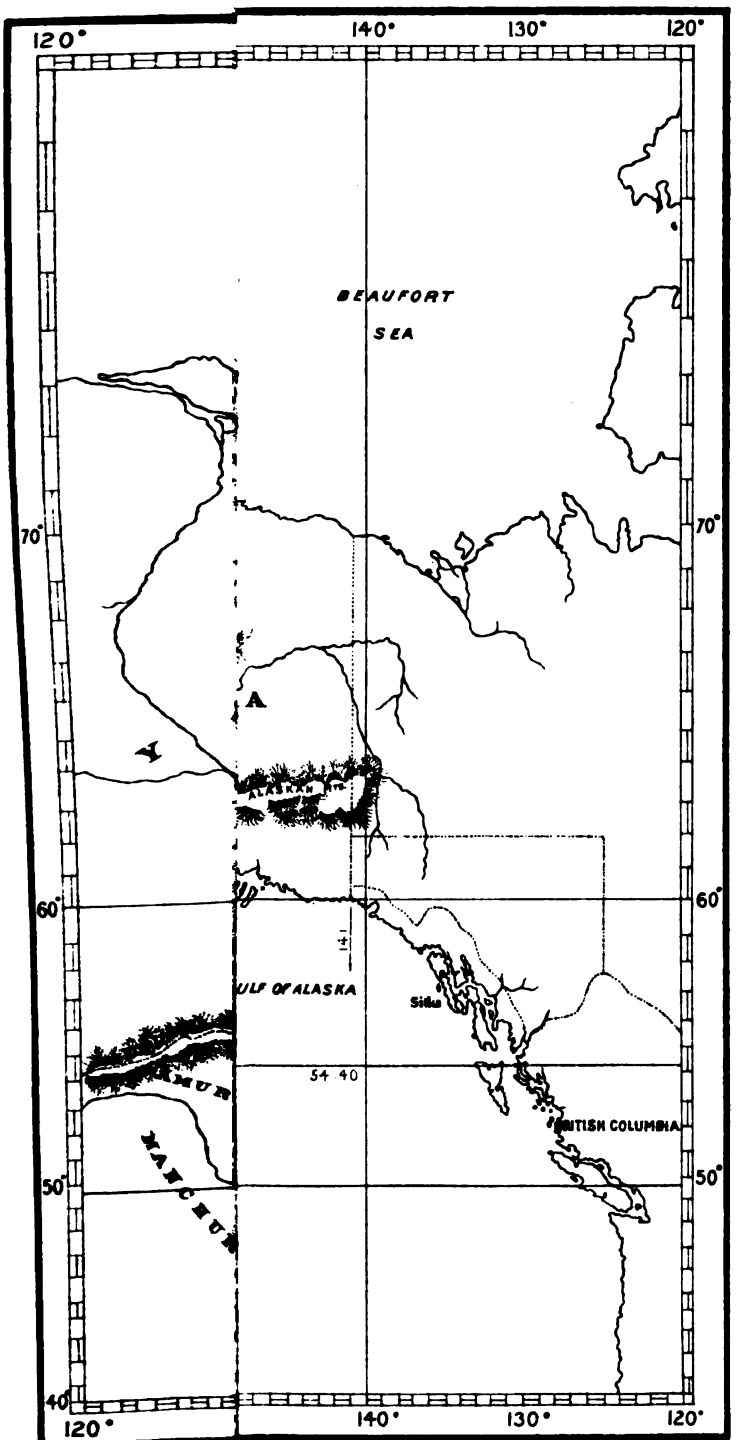
Even his Lordship will not dispute the fact that it was upon this coast and in the waters washing it that the United States and Great Britain had exercised free navigation and commerce continuously since 1784. By no possibility could that navigation and commerce have been in Behring's Sea. Mr. Middleton, a close student of history, and experienced in diplomacy, could not have declared that the United States had "exercised navigation" in the Behring's Sea, and "commerce upon its coasts," *from the time of their independence.* As a matter of history, there was no trade and no navigation (except the navigation of explorers) by the United States and Great Britain in the Behring's Sea in 1784, or even at the time these Treaties were negotiated. Captain Cook's voyage of exploration and discovery through the waters of that sea was completed at the close of the year 1778, and his "Voyage to the Pacific Ocean" was not published in London until five years after his death, which occurred at the Sandwich Islands on the 14th February, 1779. The Pribyloff Islands were first discovered, one in 1786 and the other in 1787. Seals were taken there for a few years afterwards by the Lebedef Company of Russia, subsequently consolidated into the Russian-American Company; but the taking of seals on those islands was then discontinued by the Russians until 1803, when it was resumed by the Russian-American Company.

At the time these Treaties were negotiated there was only one Settlement, and that of Russians, on the shores of the Behring's Sea, and the only trading vessels which had entered that sea were the vessels of the Russian Fur Company. Exploring expeditions had, of course, entered. It is evident, therefore, without further statement, that neither the vessels of the United States nor of Great Britain nor of any other Power than Russia had traded on the shores of Behring's Sea prior to the negotiations of these Treaties. No more convincing proof could be adduced that these Treaties had reference solely to the waters and coasts of the continent south of the Alaskan Peninsula—simply the "Pacific Ocean" and the "north-west coast" named in the Treaties.

The IIIrd Article of the British Treaty, as printed in the British State Papers, is as follows:

"The line of demarcation between the possessions of the High Contracting Parties upon the coast of the continent and the islands of America to the north-west shall be drawn in the manner following:

"Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54° 40′ north latitude, and between the 131st and the 133rd degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel, as far as the *point of* the continent where it strikes the 56th degree of north latitude; from this



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OUTLINE OF MAP No 2 ACCOMPANYING Mr BLAINE'S NOTE OF DEC. 17, 1890.

last-mentioned point the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude (of the same meridian); and, finally, from the said point of intersection the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and the British possessions on the Continent of America to the north-west."

45 It will be observed that this Article explicitly delimits the boundary between British America and the Russian possessions. This delimitation is in minute detail from 54° 40′ to the northern terminus of the coast known as the north-west coast. When the boundary-line reaches that point (opposite 60° north latitude) where it intersects the 141st degree of west longitude, all particularity of description ceases. From that point it is projected directly northward for 600 or 700 miles without any reference to coast-line, without any reference to points of discovery or occupation (for there were none in that interior country), but simply on a longitudinal line as far north as the Frozen or Arctic Ocean.

What more striking interpretation of the Treaty could there be than this boundary-line itself? It could not be clearer if the British negotiators had been recorded as saying to the Russian negotiators:

"Here is the north-west coast to which we have disputed your claims—from the 51st to the 60th degree of north latitude. We will not, in any event, admit your right south of 54° 40′. From 54° 40′ to the point of junction with the 141st degree of west longitude we will agree to your possession of the coast. That will cover the dispute between us. As to the body of the continent above the point of intersection, at the 141st degree of longitude, we know nothing, nor do you. It is a vast unexplored wilderness. We have no Settlements there, and you have none. We have, therefore, no conflicting interests with your Government. The simplest division of that territory is to accept the prolongation of the 141st degree of longitude to the Arctic Ocean as the boundary. East of it the territory shall be British. West of it the territory shall be Russian."

And it was so finally settled.

Article IV of the Anglo-Russian Treaty is as follows:

"With reference to the line of demarcation laid down in the preceding Article it is understood:

"1. That the island called Prince of Wales Island shall belong wholly to Russia.

"2. That wherever the summit of the mountains which extend in a direction parallel to the coast, from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude, shall prove to be at the distance of more than 10 marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as above mentioned, shall be formed by 'a line parallel to the windings of the coast, and which shall never exceed the distance of 10 marine leagues therefrom.'"

The evident design of this Article was to make certain and definite the boundary-line along the line of coast, should there be any doubt as to that line as laid down in Article III. It provided that the boundary-line, following the windings of the coast, should never be more than 10 marine leagues therefrom.

The Vth Article of the Treaty between Great Britain and Russia reads thus:

"It is, moreover, agreed that no establishment shall be formed by either of the two Parties within the limits assigned by the two preceding Articles to the possessions of the other. Consequently, British subjects shall not form any establishment either upon the coast or upon the border of the continent comprised within the limits of the Russian possessions, as designated in the two preceding Articles; and, in like manner, no establishment shall be formed by Russian subjects beyond the said limits."

The plain meaning of this Article is that neither Party shall make Settlements within the limits assigned by the IIIrd and IVth Articles to the possession of the other. Consequently, the IIIrd and IVth Articles are of supreme importance as making the actual delimitations between the two countries, and forbidding each to form any establishments within the limits of the other.

The VIth Article of Russia's Treaty with Great Britain is as follows:

"It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall for ever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course toward the Pacific Ocean, may cross the line of demarcation upon the line of coast described in Article III of the present Convention."

The meaning of this Article is not obscure. The subjects of Great Britain, whether arriving from the interior of the continent or from the ocean, shall enjoy the right of navigating freely all the rivers and streams which, in their course to the

46 Pacific Ocean, *may cross the line of demarcation upon the line of coast described in Article III.* As is plainly apparent, the coast referred to in Article III is

the coast south of the point of junction already described. Nothing is clearer than the reason for this provision. A *strip of land*, at no point wider than 10 marine leagues, running along the Pacific Ocean from 54° 40′ to 60° (320 miles by geographical line, by the windings of the coast three times that distance), was assigned to Russia by the IIIrd Article. Directly to the east of this strip of land—or, as might be said, behind it—lay the British possessions. To shut out the inhabitants of the British possessions from the sea by this *strip of land*, would have been not only unreasonable, but intolerable to Great Britain. Russia promptly conceded the privilege, and gave to Great Britain the right of navigating all rivers crossing that strip of land from 54° 40′ to the point of intersection with the 141st degree of longitude. Without this concession the Treaty could not have been made. I do not understand that Lord Salisbury dissents from this obvious construction of the VIth Article, for in his despatch he says that the Article has a "restricted bearing," and refers only to "the *line of coast described* in Article III" (the italics are his own), and the only line of coast described in Article III is the coast from 54° 40′ to 60°. There is no description of the coast above that point stretching along the Behring's Sea from latitude 60° to the Straits of Behring.

The VIIth Article of the Anglo-Russian Treaty, whose provisions have led to the principal contention between the United States and Great Britain, is as follows:

"It is also understood that for the space of ten years from the signature of the present Convention the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in Article III, for the purposes of fishing and of trading with the natives."

In the judgment of the President the meaning of this Article is altogether plain and clear. It provides that for the space of ten years the vessels of the two Powers should *mutually* be at liberty to frequent all the inland seas, &c., "*on the coast mentioned in Article III, for the purpose of fishing and trading with the natives.*" Following out the line of my argument and the language of the Article, I have already maintained that this privilege could only refer to the coast from 54° 40′ to the point of intersection with the 141st degree of west longitude; that therefore, British subjects were not granted the right of frequenting the Behring's Sea.

Denying this construction, Lord Salisbury says:

"I must further dissent from Mr. Blaine's interpretation of Article VII of the latter Treaty (British). That Article gives to the vessels of the two Powers 'liberty to frequent all the inland seas, gulfs, havens, and creeks on the coast mentioned in Article III, for the purpose of fishing and of trading with the natives.' The expression 'coast mentioned in Article III' can only refer to the first words of the Article, 'the line of demarcation between the possessions of the High Contracting Parties upon the coast of the continent and the islands of America to the north-west shall be drawn,' &c., that is to say, it included all the possessions of the two Powers on the north-west coast of America. For there would have been no sense whatever in stipulating that Russian vessels should have freedom of access to the small portion of coast which, by a later part of the Article, is to belong to Russia. And, as bearing on this point, it will be noticed that Article VI, which has a more restricted bearing, speaks only of 'the subjects of His Britannic Majesty' and of 'the *line of coast described* in Article III.'"

It is curious to note the embarrassing intricacies of his Lordship's language and the erroneous assumption upon which his argument is based. He admits that the privileges granted in the VIth Article to the subjects of Great Britain are limited to "the coast described in Article III of the Treaty." But when he reaches the VIIth Article, where the privileges granted are limited to "the coast mentioned in Article III of the Treaty," his Lordship maintains that the two references do not mean the same coast at all. The *coast described* in Article III and the *coast mentioned* in Article III are, therefore, in his Lordship's judgment, entirely different. The "coast *described* in Article III" is limited, he admits, by the intersection of the boundary-line with the 141st degree of longitude, but the "coast *mentioned* in Article III" stretches to the Straits of Behring.

The IIIrd Article is, indeed, a very plain one, and its meaning cannot be obscured. Observe that the "line of demarcation" is between the possessions of both parties *on the coast* of the continent. Great Britain had no possessions on the coast-line above the point of junction with the 141st degree, nor had she any Settlements above 60° north latitude. South of 60° north latitude was the only place
47 where Great Britain had possessions on the coast-line. North of that point her territory had no connection whatever with the coast either of the Pacific Ocean or the Behring's Sea. It is thus evident that the only *coast* referred to in Article III was this *strip of land* south of 60° or 59° 30′.

The preamble closes by saying that the line of demarcation between the possessions on the coast "shall be drawn in the manner following," viz.: From Prince of Wales Island, in 54° 40′, along Portland Channel and the summit of the mountains

parallel to the coast *as far as their intersection with the 141st degree of longitude.* After having *described* this line of demarcation between the possessions of both parties on the coast, the remaining sentence of the Article shows that, "finally, from the said point of intersection, the said meridian-line . . . shall form *the limit* between the Russian and British possessions *on the Continent of America.*" South of the point of intersection the Article describes a *line of demarcation* between possessions *on the coast;* north of that point of intersection the Article designates a meridian-line as *the limit* between possessions *on the continent.* The argument of Lord Salisbury appears to this Government not only to contradict the obvious meaning of the VIIth and IIIrd Articles, but to destroy their logical connection with the other Articles. In fact, Lord Salisbury's attempt to make *two* coasts out of the *one* coast referred to in the IIIrd Article is not only out of harmony with the plain provisions of the Anglo-Russian Treaty, but is inconsistent with the preceding part of his own argument.

These five Articles in the British Treaty (the IIIrd, IVth, Vth, VIth, and VIIth) are expressed with an exactness of meaning which no argument can change or pervert. In a later part of my note I shall be able, I think, to explain why the Russian Government elaborated the Treaty with Great Britain with greater precision and at greater length than was employed in framing the Treaty with the United States. It will be remembered that between the two Treaties there was an interval of more than ten months—the Treaty with the United States being negotiated in April 1824, and that with Great Britain in February 1825. During that interval something occurred which made Russia more careful and more exacting in her negotiations with Great Britain than she had been with the United States. What was it?

It is only necessary to quote the IIIrd and IVth Articles of the American Treaty to prove that less attention was given to their consideration than was given to the formation of the British Treaty with Russia. The two Articles in the American Treaty are as follows:

"Article III. It is, moreover, agreed that hereafter there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the north-west coast of America, nor in any of the islands adjacent, to the north of 54° 40′ of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

"Article IV. It is, nevertheless, understood that during a term of ten years, counting from the signature of the present Convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbours, and creeks upon the coast mentioned in the preceding Article, for the purpose of fishing and trading with the natives of the country."

It will be noted that in the British Treaty four Articles, with critical expression of terms, take the place of the IIIrd and IVth Articles of the American Treaty, which were evidently drafted with an absence of the caution on the part of Russia which marked the work of the Russian Plenipotentiaries in the British negotiation.

From some cause, not fully explained, great uneasiness was felt in certain Russian circles, and especially among the members of the Russian-American Company, when the Treaty between Russia and the United States was made public. The facts leading to the uneasiness were not accurately known, and from that cause they were exaggerated. The Russians who were to be affected by the Treaty were in doubt as to the possible extent implied by the phrase "north-west coast of America," as referred to in the IIIrd and IVth Articles. The phrase, as I have before said, was used in two senses, and they feared it might have such a construction as would carry the American privilege to the Straits of Behring. They feared, moreover, that the uncertainty of the coast referred to in Article III might, by construction adverse to Russia, include the Behring's Sea among the seas and gulfs mentioned in Article IV.

If that construction should prevail, not only the American coast, but the
48 coast of Siberia and the Aleutian coasts, might also be thrown open to the ingress of American fishermen. So great and genuine was their fright that they were able to induce the Russian Government to demand a fresh discussion of the Treaty before they would consent to exchange ratifications.

It is easy, therefore, to discern the facts which caused the difference in precision between the American and British Treaties with Russia, and which at the same time give conclusive force to the argument steadily maintained by the Government of the United States. These facts have thus far only been hinted at, and I have the right to presume that they have not yet fallen under the observation of Lord Salisbury. The President hopes that after the facts are presented the American contention will no longer be denied or resisted by Her Majesty's Government.

Nearly eight months after the Russo-American Treaty was negotiated, and before the exchange of ratifications had yet taken place, there was a remarkable interview between Secretary Adams and the Russian Minister. I quote from Mr. Adams' diary, the 6th December, 1824:

"*6th, Monday.*—Baron Tuyl, the Russian Minister, wrote me a note requesting an immediate interview, in consequence of instructions received yesterday from his Court. He came, and, after intimating that he was under some embarrassment in executing his instructions, said that the Russian-American Company, upon learning the purport of the North-West Coast Convention concluded last June by Mr. Middleton, were extremely dissatisfied ('a jetée de hauts cris'), and, by means of their influence, had prevailed upon his Government to send him these instructions upon two points. One was that he should deliver, upon the exchange of the ratifications of the Convention, an explanatory note purporting that the Russian Government did not understand that the Convention would give liberty to the citizens of the United States to trade on the coast of Siberia and the Aleutian Islands. The other was to propose a modification of the Convention, by which our vessels should be prohibited from trading on the north-west coast north of latitude 57°. With regard to the former of these points he left with me a Minute in writing."

With this preliminary statement Baron Tuyl, in accordance with instructions from his Government, submitted to Mr. Adams the following note:

"*Explanatory Note from Russia.*

"Explanatory note to be presented to the Government of the United States at the time of the exchange of ratifications, with a view to removing with more certainty all occasion for future discussions; by means of which note it will be seen that *the Aleutian Islands, the coasts of Siberia, and the Russian possessions in general on the north-west coast of America to 59° 30′ of north latitude* are positively excepted from the liberty of hunting, fishing, and commerce stipulated in favour of citizens of the United States for ten years.

"This seems to be only a natural consequence of the stipulations agreed upon, for *the coasts of Siberia* are washed by the Sea of Okhotsk, the Sea of Kamschatka, and the Icy Sea, *and not by the South Sea* mentioned in the 1st Article of the Convention of the 5th (17th) April, 1824. *The Aleutian Islands* are also washed by the Sea of Kamschatka, or Northern Ocean.

"*It is not the intention of Russia to impede the free navigation of the Pacific Ocean.* She would be satisfied with causing to be recognized, as well understood and placed beyond all manner of doubt, the principle that beyond 59° 30′ no foreign vessel can approach her coasts and her islands, nor fish or hunt within the distance of 2 marine leagues. This will not prevent the reception of foreign vessels which have been damaged or beaten by storm."

The course pursued by Mr. Adams, after the Russian note had been submitted to him, is fully told in his diary, from which I again quote:

"I told Baron Tuyl that we should be disposed to do every thing to accommodate the views of his Government that was in our power, but that a modification of the Convention *could* be made no otherwise than by a new Convention, and that the construction of the Convention as concluded belonged to other Departments of the Government, for which the Executive had no authority to stipulate. . . . I added that the Convention would be submitted immediately to the Senate; that if anything affecting its construction, or, still more, modifying its meaning, were to be presented on the part of the Russian Government before or at the exchange of the ratifications, it must be laid before the Senate, and could have no other possible effect than of starting doubts, and, perhaps, hesitation, in that body, and of favouring the views of those, if such there were, who might wish to defeat the
49 ratification itself of the Convention. . . . If, therefore, he would permit me to suggest to him what I thought would be his best course, it would be to wait for the exchange of the ratifications, and make it purely and simply; that afterwards, if the instructions of his Government were imperative, he might present the note, to which I now informed him what would be, in substance, my answer. It necessarily could not be otherwise. But, if his instructions left it discretionary with him, he would do still better to inform his Government of the state of things here, of the purport of our conference, and of what my answer must be if he should present the note. I believed his Court would then deem it best that he should not present the note at all. *Their apprehension had been excited by an interest not very friendly to the good understanding between the United States and Russia. Our merchants would not go to trouble the Russians on the coast of Siberia, or north of the 57th degree of latitude, and it was wisest not to put such fancies into their heads.* At least the Imperial Government might wait to see the operation of the Convention before taking any further steps, and *I was confident they would hear no complaint resulting from it.* If they should, then would be the time for adjusting the construction or negotiating a modification of the Convention." . . .

The Russian Minister was deeply impressed by what Mr. Adams had said. He had not before clearly perceived the inevitable effect if he should insist on presenting the note in the form of a demand. He was not prepared for so serious a result as the destruction or the indefinite postponement of the Treaty between Russia and the United States, and Mr. Adams readily convinced him that at the exchange of ratifications no modification of the Treaty could be made. The only two courses open were, first, to ratify; or, second, to refuse, and annul the Treaty. Mr. Adams reports the words of the Minister in reply:

"The Baron said that these ideas had occurred to himself; that he had made this application in pursuance of his instructions, but he was aware of the distribution of powers in our Constitution, and of the incompetency of the Executive to adjust such questions. He would therefore wait for the exchange of the ratifications without presenting his note, and reserve for future consideration whether to present it shortly afterwards or to inform his Court of what he has done and ask their further instructions upon what he shall definitely do on the subject." . . .

As Baron Tuyl surrendered his opinions to the superior judgment of Mr. Adams, the ratifications of the Treaty were exchanged on the 11th day of January, and on the following day the Treaty was formally proclaimed. A fortnight later, on the 25th January, 1825, Baron Tuyl, following the instructions of his Government, filed his note in the Department of State. Of course, his act at that time did not affect the text of the Treaty; but it placed in the hands of the Government of the United States an unofficial note which significantly told what Russia's construction of the Treaty would be if, unhappily, any difference as to its meaning should arise between the two Governments. But Mr. Adams' friendly intimation removed all danger of dispute, for it conveyed to Russia the assurance that the Treaty, as negotiated, contained, in effect, the provisions which the Russian note was designed to supply. From that time until Alaska, with all its rights of land and water, was transferred to the United States—a period of forty-three years—no act or word on the part of either Government ever impeached the full validity of the Treaty as it was understood both by Mr. Adams and by Baron Tuyl at the time it was formally proclaimed.

While these important matters were transpiring in Washington, negotiations between Russia and England (ending in the Treaty of 1825) were in progress in St. Petersburgh. The instructions to Baron Tuyl concerning the Russian-American Treaty were fully reflected in the care with which the Anglo-Russian Treaty was constructed, a fact to which I have already adverted in full. There was, indeed, a possibility that the true meaning of the Treaty with the United States might be misunderstood, and it was therefore the evident purpose of the Russian Government to make the Treaty with England so plain and so clear as to leave no room for doubt and to baffle all attempts at misconstruction. The Government of the United States finds the full advantage to it in the caution taken by Russia in 1825, and can therefore quote the Anglo-Russian Treaty, with the utmost confidence that its meaning cannot be changed from that clear unmistakable text which, throughout all the Articles, sustains the American contention.

The "explanatory note," filed with this Government by Baron Tuyl, is so plain in its text that, after the lapse of sixty-six years, the exact meaning can neither be misapprehended nor misrepresented. It draws the distinction between the Pacific Ocean and the waters now known as the Behrings' Sea so particularly and so perspicuously that no answer can be made to it. It will bear the closest analysis in every particular. "It is not the intention of Russia to impede the free navigation of the Pacific Ocean" This frank and explicit statement shows with what entire good faith Russia had withdrawn, in both Treaties, the offensive Ukase of Alexander, so far as the Pacific Ocean was made subject to it. Another avowal is equally explicit, viz., that "the coast of Siberia, the north-west coast of America to 59° 30′ of north latitude [that is, down to 59° 30′, the explanatory note reckoning from north to south] and the Aleutian Islands are positively excepted from the liberty of hunting, fishing, and commerce stipulated in favour of citizens of the United States for ten years." The reason given for this exclusion is most significant in connection with the pending discussion, namely, that the coasts of Siberia are washed by the Sea of Okhotsk, the Sea of Kamschatka, and the Icy Sea, and not by the "South Sea" [Pacific Ocean] mentioned in the 1st Article of the Convention of the 5th (17th) April, 1824. The Aleutian Islands are also washed by the Sea of Kamschatka, or Northern Ocean (Northern Ocean being used in contradistinction to South Sea or Pacific Ocean.) The liberty of hunting, fishing, and commerce mentioned in the Treaties was therefore confined to the coast of the Pacific Ocean south of 59° 30′ both to the United States and Great Britain. It must certainly be apparent now to Lord Salisbury that Russia never intended to include the Behring's Sea in the phrase "Pacific Ocean." The American argument on that question has been signally vindicated by the official declaration of the Russian Government.

In addition to the foregoing, Russia claimed jurisdiction of 2 marine leagues from the shore in the Pacific Ocean, a point not finally insisted upon in either Treaty.

The Protocols, however, show that Great Britain was willing to agree to the 2 marine leagues, but the United States was not; and, after the concession was made to the United States, Mr. G. Canning insisted upon its being made to Great Britain also.

In the interview between the American Secretary of State and the Russian Minister, in December 1824, it is worth noting that Mr. Adams believed that the application made by Baron Tuyl had its origin "in the apprehension of the Court of Russia which had been caused by an interest not very friendly to the good understanding between the United States and Russia." I presume no one need be told that the reference here made by Mr. Adams was to the Government of Great Britain; that the obvious effort of the British Government at that time was designed to make it certain that the United States should not have the power in the waters and on the shores of Behring's Sea which, *Lord Salisbury now argues, had undoubtedly been given both to the United States and Great Britain by the Treaties.*

It is to be remembered that Mr. Adams' entire argument was to quiet Baron Tuyl with the assurance that the Treaty already negotiated was, in effect, just what the Russian Government desired it to be by the incorporation of the "explanatory note" of which Baron Tuyl was the bearer. Mr. Adams was not a man to seize an advantage merely by cunning construction of language which might have two meanings. He was determined to remove the hesitation and distrust entertained for the moment by Russia. He went so far, indeed, as to give an assurance that American ships would not go above 57° north latitude (Sitka), and he did not want the text of the Treaty so changed as to mention the facts contained in the explanatory note, because, speaking of the hunters and the fishermen, it "was wisest not to put such fancies into their heads."

It is still further noticeable that Mr. Adams, in his sententious expression, spoke of the Treaty in his interview with Baron Tuyl as "the North-West Coast Convention." This closely descriptive phrase was enough to satisfy Baron Tuyl that Mr. Adams had not taken a false view of the true limits of the Treaty, and had not attempted to extend the privileges granted to the United States a single inch beyond their plain and honourable intent.

The three most confident assertions made by Lord Salisbury, and regarded by him as unanswerable, are, in his own language, the following:

1. That England refused to admit any part of the Russian claim asserted by the Ukase of 1821 of a maritime jurisdiction and exclusive right of fishing throughout the whole extent of that claim, from Behring's Straits to the 51st parallel.

2. That the Convention of 1825 was regarded on both sides as a renunciation on the part of Russia of that claim in its entirety.

3. That, though Behring's Straits were known and specifically provided for, Behring's Sea was not known by that name, but was regarded as a part of the Pacific Ocean.

The explanatory note of the Russian Government disproves and denies in detail these three assertions of Lord Salisbury. I think they are completely dis-
51 proved by the facts recited in this despatch, but the explanatory note is a specific contradiction of each one of them.

The inclosures which accompanied Lord Salisbury's despatch, and which are quoted to strengthen his arguments, seem to me to sustain, in a remarkable manner, the position of the United States. The first inclosure is a despatch from Lord Londonderry to Count Lieven, Russian Minister at London, dated Foreign Office, the 18th January, 1822. The first paragraph of this despatch is as follows:

"The undersigned has the honour to acknowledge the note addressed to him by Baron de Nicolai of the 12th September last, covering a copy of a Ukase issued by his Imperial Master, Emperor of all the Russias, bearing date the 4th September, 1821, for various purposes therein set forth, *especially connected with the territorial rights of his Crown on the north-west coast of America bordering on the Pacific Ocean, and the commerce and navigation of His Imperial Majesty's subjects in the seas adjacent thereto.*"

It is altogether apparent that this despatch is limited to the withdrawal of the provisions of the Ukase issued by the Emperor Alexander, especially connected with *the territorial rights on the north-west coast bordering on the Pacific Ocean.* Evidently Lord Londonderry makes no reference, direct or indirect, to the Behring's Sea. The whole scope of his contention, as defined by himself, lies outside of the field of the present dispute between the British and American Governments. This Government heartily agrees with Lord Londonderry's form of stating the question.

The Duke of Wellington was England's Representative in the Congress of Verona, for which place he set out in the autumn of 1822. His instructions from Mr. G. Canning, British Secretary of Foreign Affairs, followed the precise line indicated by

Lord Londonderry in the despatch above quoted. This is more plainly shown by a "Memorandum on the Russian Ukase" delivered by the Duke on the 17th October to Count Nesselrode, Russia's Representative at Verona. The Duke was arguing against the Ukase of Alexander, as it affected British interests, and his language plainly shows that he confined himself to the "north-west coast of America bordering *on the Pacific Ocean.*" To establish this it is only necessary to quote the following paragraph from the Duke's Memorandum, viz.:

"Now, we can prove that the English North-West Company and the Hudson's Bay Company have for many years established forts and other trading places in a country called New Caledonia, situated to the west of a range of mountains called the Rocky Mountains, and extending along *the shores of the Pacific Ocean* from latitude 49° to latitude 60° north.

The Duke of Wellington always went directly to the point at issue, and he was evidently not concerning himself about any subject other than the protection of the English territory south of the Alaskan Peninsula, and on the north-west coast *bordering on the Pacific Ocean.* England owned no territory on the coast north of the Alaskan Peninsula, and hence there was no reason for connecting the coast above the peninsula in any way with the question before the Congress. Evidently the Duke did not, in the remotest manner, connect the subject he was discussing with the waters or the shores of the Behring's Sea.

The most significant and important of all the inclosures is No. 12, in which Mr. Stratford Canning, the British negotiator at St. Petersburgh, communicated, under date of the 1st March, 1825, to Mr. G. Canning, Minister of Foreign Affairs, the text of the Treaty between England and Russia. Some of Mr. Stratford Canning's statements are very important. In the second paragraph of his letter he makes the following statement:

"The line of demarcation along the *strip of land* on the north-west coast of America assigned to Russia is laid down in the Convention agreeably to your directions." . . .

After all, then, it appears that the "strip of land," to which we have already referred more than once, was reported by the English Plenipotentiary at St. Petersburgh. This clearly and undeniably exhibits the field of controversy between Russia and England, even if we had no other proof of the fact. It was solely on the north-west coast bordering on the Pacific Ocean, and not in the Behring's Sea at all. It is the same *strip of land* which the United States acquired in the purchase of Alaska, and runs from 54° 40′ to 60° north latitude—the same *strip of land* which gave to British America, lying *behind* it, a free access to the ocean.

52 Mr. Stratford Canning also communicated, in his letter of the 1st March, the following:

"With respect to Behring's Straits, I am happy to have it in my power to assure you, on the joint authority of the Russian Plenipotentiaries, that *the Emperor of Russia has no intention whatever of maintaining any exclusive claim to the navigation of those straits or of the seas to the north of them.*"

This assurance from the Emperor of Russia is of that kind where the power to give or to withhold is absolute. If the Treaty of 1825 between Great Britain and Russia had conceded such rights in the Behring waters as Lord Salisbury now claims, why was Sir Stratford Canning so "happy" to "have it in his power to assure" the British Foreign Office, on "the authority of two Russian Plenipotentiaries," that "the Emperor had no intention of maintaining an exclusive claim to the navigation of the Behring's Straits," or of the "seas to the north of them." The *seas to the south of the straits* were most significantly not included in the Imperial assurance. The English statesmen of that day had, as I have before remarked, attempted the abolition of the Ukase of Alexander only so far as it affected the coast of the Pacific Ocean from the 51st to the 60th degree of north latitude. It was left in full force on the shores of the Behring's Sea. There is no proof whatever that the Russian Emperor annulled it there. That sea, from east to west, is 1,300 miles in extent; from north to south it is 1,000 miles in extent. The whole of this great body of water, under the Ukase, was left open to the world, except a strip of 100 miles from the shore. But with these 100 miles enforced on all the coasts of the Behring's Sea it would be obviously impossible to approach the Straits of Behring, which were less than 50 miles in extreme width. If enforced strictly, the Ukase would cut off all vessels from passing through the straits to the Arctic Ocean. If, as Lord Salisbury claims, the Ukase had been withdrawn from the entire Behring coast, as it was between the 51st and 60th degrees on the Pacific coast, what need would there have been for Mr. Stratford Canning, the English Plenipotentiary, to seek a favour from Russia in regard to passing through the straits into the Arctic Ocean, where scientific expeditions and whaling vessels desired to go?

I need not review all the inclosures, but I am sure that, properly analyzed, they will all show that the subject-matter touched only the settlement of the dispute on the north-west coast, from the 51st to the 60th degree of north latitude. In other

words, they related to the contest which was finally adjusted by the establishment of the line 54° 40′, which marked the boundary between Russian and English territory at the time of the Anglo-Russian Treaty, as to-day it marks the line of division between Alaska and British Columbia. But that question in no way touched the Behring's Sea; it was confined wholly to the Pacific Ocean and the north-west coast.

Lord Salisbury has deemed it proper, in his despatch, to call the attention of the Government of the United States to some elementary principles of international law touching the freedom of the seas. For our better instruction he gives sundry extracts from Wheaton and Kent—our most eminent publicists—and, for further illustration, quotes from the despatches of Secretaries Seward and Fish, all maintaining the well-known principle that a nation's jurisdiction over the sea is limited to 3 marine miles from its shore line. Commenting on these quotations, his Lordship says:

"A claim of jurisdiction over the open sea which is not in accordance with the recognized principles of international law or usage may, of course, be asserted by force, but cannot be said to have any legal validity as against the vessels of other countries, except in so far as it is positively admitted in Conventional Agreements with those countries."

The United States, having the most extended sea-coast of all the nations of the world, may be presumed to have paid serious attention to the laws and usages which define and limit maritime jurisdiction. The course of this Government has been uniformly in favour of upholding the recognized law of nations on that subject. While Lord Salisbury's admonitions are received in good part by this Government, we feel justified in asking his Lordship if the Government of Great Britain has uniformly illustrated these precepts by example, or whether she has not established at least one notable precedent which would justify us in making greater demands upon Her Majesty's Government touching the Behring's Sea than either our necessities or our desires have ever suggested? The precedent to which I refer is contained in the following narative:

Napoleon Bonaparte fell into the power of Great Britain on the 15th July, 1815. The disposition of the illustrious prisoner was primarily determined by a Treaty negotiated at Paris on the 2nd of the following August between Great Britain,
53 Russia, Prussia, and Austria. By that Treaty "the custody of Napoleon is specially intrusted to the British Government." The choice of the place and of the measures which could best secure the prisoner were especially reserved to His Britannic Majesty. In pursuance of this power, Napoleon was promptly sent by Great Britain to the Island of St. Helena as a prisoner for life. Six months after he reached St. Helena the British Parliament enacted a special and extraordinary Law for the purpose of making his detention more secure. It was altogether a memorable Statute, and gave to the British Governor of the Island of St. Helena remarkable powers over the property and rights of other nations. The Statute contains eight long sections, and in the 4th section assumes the power to exclude ships of any nationality, not only from landing on the island, but forbids them "to hover within 8 leagues of the coast of the island." The penalty for hovering within 8 leagues of the coast is the forfeiture of the ship to His Majesty the King of Great Britain, on trial to be had in London, and the offence to be the same as if committed in the County of Middlesex. This power was not assumed by a military commander, pleading the silence of law amid the clash of arms; nor was it conferred by the power of civil government in a crisis of public danger. It was a Parliamentary enactment in a season of profound peace that was not broken in Europe by war among the Great Powers for eight-and-thirty years thereafter. (See Inclosure C.)

The British Government thus assumed exclusive and absolute control over a considerable section of the South Atlantic Ocean, lying directly in the path of the world's commerce, near the capes which mark the southernmost points of both hemispheres, over the waters which for centuries had connected the shores of all continents, and afforded the commercial highway from and to all the ports of the world. The body of water thus controlled, in the form of a circle nearly 50 miles in diameter, was scarcely less than 2,000 square miles in extent; and whatever ship dared to tarry or hover within this area might, regardless of its nationality, be forcibly seized and summarily forfeited to the British King.

The United States had grave and special reasons for resenting this peremptory assertion of power by Great Britain. On the 3rd day of July, 1815, a fortnight after the Battle of Waterloo and twelve days before Napoleon became a prisoner of war, an important Commercial Treaty was concluded at London between the United States and Great Britain. It was the sequel to the Treaty of Ghent, which was concluded some six months before, and was remarkable, not only from the character of its provisions, but from the eminence of the American negotiators—John Quincy Adams, Henry Clay, and Albert Gallatin. Among other provisions of this Treaty relaxing the stringent colonial policy of England was one which agreed that American ships should be admitted and hospitably received at the Island of St. Helena. *Before* the ratifications of the Treaty were exchanged in the following November, *it was determined* that Napoleon should be sent to St. Helena. England thereupon

declined to ratify the Treaty unless the United States should surrender the provision respecting that island. After that came the stringent enactment of Parliament forbidding vessels to hover within 24 miles of the island. The United States was already a great Commercial Power. She had 1,400,000 tons of shipping; more than 500 ships bearing her flag were engaged in trade around the capes. Lord Salisbury has had much to say about the liberty of the seas, but these 500 American ships were denied the liberty of the seas within a space of 50 miles wide in the South Atlantic Ocean by the express authority of Great Britain.

The Act of Parliament which asserted this power over the sea was to be in force as long as Napoleon should live. Napoleon was born the same year with Wellington, and was therefore but 46 years of age when he was sent to St. Helena. His expectation of life was then as good as that of the Duke, who lived until 1852. The order made in April 1816 to obstruct free navigation in a section of the South Atlantic might, therefore, have been in force for the period of thirty-six years, if not longer. It actually proved to be for five years only. Napoleon died in 1821.

It is hardly conceivable that the same nation which exercised this authority in the broad Atlantic, over which, at that very time, 800,000,000 of people made their commercial exchanges, should deny the right of the United States to assume control over a limited area, for a fraction of each year, in a sea which lies far beyond the line of trade, whose silent waters were never cloven by a commercial prow, whose uninhabited shores have no port of entry, and could never be approached on a lawful errand under any other flag than that of the United States. Is this Government to understand that Lord Salisbury justifies the course of England? Is this Government to understand that Lord Salisbury maintains the right of England, at her will and pleasure, to obstruct the highway of commerce in mid-ocean, and that she will
54 at the same time interpose objections to the United States exercising her jurisdiction beyond the 3-mile limit, in a remote and unused sea, for the sole purpose of preserving the most valuable fur-seal fishery in the world from remediless destruction?

If Great Britain shall consider that the precedent set at St. Helena of obstruction to the navigable waters of the ocean is too remote for present quotation, I invite her attention to one still in existence. Even to-day, while Her Majesty's Government is aiding one of her Colonies to destroy the American seal fisheries, another Colony, with her consent, has established a pearl fishery in an area of the Indian Ocean 600 miles wide. And so complete is the assumption of power that, according to Sir George Baden-Powell, a licence-fee is collected from the vessels engaged in the pearl fisheries in the open ocean. The asserted power goes to the extent of making foreign vessels that have procured their pearls far outside the 3-mile limit pay a heavy tax when the vessels enter an Australian port to land cargoes and refit. Thus the foreign vessel is hedged in on both sides, and is bound to pay the tax under British law, because, as Sir George Baden-Powell intimates, the voyage to another port would probably be more expensive than the tax. I quote further from Sir George to show the extent to which British assumption of power over the Ocean has gone:

"The right to charge these dues and to exercise this control *outside the 3-mile limit* is based on an Act of the Federal Council of Australasia, which (Federal Council Act, 1885, sec. 15) enacts that the Council shall have legislative authority, *inter alia*, *in respect to fisheries in Australian waters outside territorial limits.* In 1889 this Council passed an Act to 'regulate the pearl-shell and *bêche-de-mer* fisheries in Australian waters adjacent to the Colony of Western Australia.' In 1888 a similar Act had been passed, dealing with the fisheries in the seas adjacent to Queensland (on the east coast)."

I am directed by the President to say that, on behalf of the United States, he is willing to adopt the text used in the Act of Parliament to exclude ships from hovering nearer to the Island of St. Helena than 8 marine leagues, or he will take the example cited by Sir George Baden-Powell, where, by permission of Her Majesty's Government, control over a part of the ocean 600 miles wide is to-day authorized by Australian law. The President will ask the Government of Great Britain to agree to the distance of 20 marine leagues—within which no ship shall hover around the Islands of St. Paul and St. George, from the 15th May to the 15th October of each year. This will prove an effective mode of preserving the seal fisheries for the use of the civilized world—a mode which, in view of Great Britain's assumption of power over the open ocean, she cannot with consistency decline. Great Britain prescribed 8 leagues at St. Helena; but the obvious necessities in the Behring's Sea will, on the basis of this precedent, justify 20 leagues for the protection of the American seal fisheries.

The United States desires only such control over a limited extent of the waters in the Behring's Sea, for a part of each year, as will be sufficient to insure the protection of the fur-seal fisheries, already injured, possibly, to an irreparable extent by the intrusion of Canadian vessels, sailing with the encouragement of Great Britain and protected by her flag. The gravest wrong is committed when (as in many

instances is the case) American citizens, refusing obedience to the laws of their own country, have gone into partnership with the British flag and engaged in the destruction of the seal fisheries which belong to the United States. So general, so notorious, and so shamelessly avowed has this practice become that last season, according to the Report of the American Consul at Victoria, when the intruders assembled at Ounalaska on the 4th July, previous to entering Behring's Sea, the day was celebrated in a patriotic and spirited manner by the American citizens, who, at the time, were protected by the British flag in their violation of the laws of their own country.

With such agencies as these, devised by the Dominion of Canada and protected by the flag of Great Britain, American rights and interests have, within the past four years, been damaged to the extent of millions of dollars, with no corresponding gain to those who caused the loss. From 1870 to 1890 the seal fisheries—carefully guarded and preserved—yielded 100,000 skins each year. The Canadian intrusions began in 1886, and so great has been the damage resulting from their destruction of seal life in the open sea surrounding the Pribyloff Islands, that in 1890 the Government of the United States limited the Alaska Company to 60,000 seals. But the Company was able to secure only 21,000 seals. Under the same evil influences that have been active now for five seasons the seal fisheries will soon be utterly destroyed. Great Britain has been informed, advised, warned over and over again, of the evil effects that would flow from her course of action; but, against testimony that amounts to demonstration, she has preferred to abide by personal representations from Ottawa, by Reports of Commissioners who examined nothing, and heard nothing, except the testimony of those engaged in the business against which the United States has earnestly protested. She may possibly be convinced of the damage if she will send an intelligent Commissioner to the Pribyloff Islands.

In general answer to all these facts, Great Britain announces that she is willing to settle the dispute by arbitration. Her proposition is contained in the following paragraph, which I quote in full:

"I have to request that you will communicate a copy of this despatch, and of its inclosures, to Mr. Blaine. You will state that Her Majesty's Government have no desire whatever to refuse to the United States any jurisdiction in Behring's Sea which was conceded by Great Britain to Russia, and which properly accrues to the present possessors of Alaska in virtue of Treaties or the law of nations; and that, if the United States Government, after examination of the evidence and arguments which I have produced, still differ from them as to the legality of the recent captures in that sea, they are ready to agree that the question, with the issues that depend upon it, should be referred to impartial arbitration. You will in that case be authorized to consider, in concert with Mr. Blaine, the method of procedure to be followed."

In his annual Message, sent to Congress on the 1st of the present month, the President, speaking in relation to the Behring's Sea question, said:

"The offer to submit the question to arbitration, as proposed by Her Majesty's Government, has not been accepted, for the reason that the form of submission proposed is not thought to be calculated to assure a conclusion satisfactory to either party."

In the judgment of the President, nothing of importance would be settled by proving that Great Britain conceded no jurisdiction to Russia over the seal fisheries of the Behring's Sea. It might as well be proved that Russia conceded no jurisdiction to England over the River Thames. By doing nothing in each case everything is conceded. In neither case is anything asked of the other. "Concession," as used here, means simply *acquiescence* in the rightfulness of the title, and that is the only form of concession which Russia asked of Great Britain, or which Great Britain gave to Russia.

The second offer of Lord Salisbury to arbitrate amounts simply to a submission of the question whether any country has a right to extend its jurisdiction more than one marine league from the shore? No one disputes that, as a rule; but the question is whether there may not be exceptions whose enforcement does not interfere with those highways of commerce which the necessities and usage of the world have marked out. Great Britain, when she desired an exception, did not stop to consider or regard the inconvenience to which the commercial world might be subjected. Her exception placed an obstacle in the highway between continents. The United States, in protecting the seal fisheries, will not interfere with a single sail of commerce on any sea of the globe.

It will mean something tangible, in the President's opinion, if Great Britain will consent to arbitrate the real questions which have been under discussion between the two Governments for the last four years. I shall endeavor to state what, in the judgment of the President, those issues are:

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to time of the cession of Alaska to the United States?

2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights (if any) in the Behring's Sea were given or conceded to Great Britain by the said Treaty?

4. Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. What are now the rights of the United States as to the fur-seal fisheries in the waters of the Behring's Sea outside of the ordinary territorial limits, whether such rights grow out of the cession by Russia of any special rights or jurisdiction held by her in such fisheries or in the waters of Behring's Sea, or out of the ownership of the breeding islands and the habits of the seals in resorting thither and rearing their young thereon and going out from the islands for food, or out of any other fact or incident connected with the relation of those seal fisheries to the territorial possessions of the United States?

56 6. If the determination of the foregoing questions shall leave the subject in such a position that the concurrence of Great Britain is necessary in prescribing Regulations for the killing of the fur-seal in any part of the waters of Behring's Sea, then it shall be further determined: (1) How far, if at all, outside the ordinary territorial limits it is necessary that the United States should exercise an exclusive jurisdiction in order to protect the seal for the time living upon the islands of the United States and feeding therefrom? (2) Whether a closed season (during which the killing of seals in the waters of Behring's Sea outside the ordinary territorial limits shall be prohibited) is necessary to save the seal fishing industry, so valuable and important to mankind, from deterioration or destruction? And, if so, (3) What months or parts of months should be included in such season, and over what waters it should extend?

The repeated assertions that the Government of the United States demands that the Behring's Sea be pronounced *mare clausum* are without foundation. The Government has never claimed it and never desired it. It expressly disavows it. At the same time the United States does not lack abundant authority, according to the ablest exponents of international law, for holding a small section of the Behring's Sea for the protection of the fur-seals. Controlling a comparatively restricted area of water for that one specific purpose is by no means the equivalent of declaring the sea, or any part thereof, *mare clausum*. Nor is it by any means so serious an obstruction as Great Britain assumed to make in the South Atlantic, nor so groundless an interference with the common law of the sea as is maintained by British authority to-day in the Indian Ocean. The President does not, however, desire the long postponement which an examination of legal authorities from Ulpian to Phillimore and Kent would involve. He finds his own views well expressed by Mr. Phelps, our late Minister to England, when, after failing to secure a just arrangement with Great Britain touching the seal fisheries, he wrote the following in his closing communication to his own Government, 12th September, 1888:

"Much learning has been expended upon the discussion of the abstract question of the right of *mare clausum*. I do not conceive it to be applicable to the present case.

"Here is a valuable fishery, and a large and, if properly managed, permanent industry, the property of the nations on whose shores it is carried on. It is proposed by the Colony of a foreign nation, in defiance of the joint remonstrance of all the countries interested, to destroy this business by the indiscriminate slaughter and extermination of the animals in question, in the open neighbouring sea, during the period of gestation, when the common dictates of humanity ought to protect them, were there no interest at all involved. And it is suggested that we are prevented from defending ourselves against such depredations because the sea at a certain distance from the coast is free.

"The same line of argument would take under its protection piracy and the Slave Trade when prosecuted in the open sea, or would justify one nation in destroying the commerce of another by placing dangerous obstructions and derelicts in the open sea near its coasts. There are many things that cannot be allowed to be done on the open sea with impunity, and against which every sea is *mare clausum;* and the right of self-defense as to person and property prevails there as fully as elsewhere. If the fish upon the Canadian coasts could be destroyed by scattering poison in the open sea adjacent with some small profit to those engaged in it, would Canada, upon the just principles of international law, be held defenceless in such a case? Yet that process would be no more destructive, inhuman, and wanton than this.

"If precedents are wanting for a defence so necessary and so proper, it is because precedents for such a course of conduct are likewise unknown. The best interna-

tional law has arisen from precedents that have been established when the just occasion for them arose, undeterred by the discussion of abstract and inadequate rules."

I have, &c.

(Signed) JAMES G. BLAINE.

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57 [Inclosure (A).]

Convention between the United States and Russia relative to Navigation, Fishing, and Trading in the Pacific Ocean, and to Establishments on the North-West Coast.—Concluded April 17, 1824; Ratifications exchanged at Washington, January 11, 1825; Proclaimed January 12, 1825.*

In the Name of the Most Holy and Indivisible Trinity.

The President of the United States of America and His Majesty the Emperor of All the Russias, wishing to cement the bonds of amity which unite them, and to secure between them the invariable maintenance of a perfect concord, by means of the present Convention, have named as their Plenipotentiaries to this effect, to wit:

The President of the United States of America, Henry Middleton, a citizen of said States, and their Envoy Extraordinary and Minister Plenipotentiary near His Imperial Majesty; and His Majesty the Emperor of all the Russias, his beloved and faithful Charles Robert, Count of Nesselrode, Actual Privy Counsellor, Member of the Council of State, Secretary of State directing the administration of Foreign Affairs, Actual Chamberlain, Knight of the Order of St. Alexander Nevsky, Grand Cross of the Order of St. Wladimir of the first class, Knight of that of the White Eagle of Poland, Grand Cross of the Order of St. Stephen of Hungary, Knight of the Orders of the Holy Ghost and St. Michael, and Grand Cross of the Legion of Honour of France, Knight Grand Cross of the Orders of the Black and of the Red Eagle of Prussia, of the Annunciation of Sardinia, of Charles III of Spain, of St. Ferdinand and of Merit of Naples, of the Elephant of Denmark, of the Polar Star of Sweden, of the Crown of Würtemberg, of the Guelphs of Hanover, of the Belgic Lion, of Fidelity of Baden, and of St. Constantine of Parma; and Pierre de Poletica, Actual Counsellor of State, Knight of the Order of St. Anne of the first class, and Grand Cross of the Order of St. Wladimir of the Second;

Who, after having exchanged their full powers, found in good and due form, have agreed upon and signed the following stipulations:

ARTICLE I.

It is agreed that, in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the High Contracting Powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following Articles.

ARTICLE II.

With a view of preventing the rights of navigation and of fishing exercised upon the Great Ocean by the citizens and subjects of the High Contracting Powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment without the permission of the Governor or Commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the north-west coast.

ARTICLE III.

It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the north-west coast of America, nor in any of the islands adjacent, to the north of 54° 40′ of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

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* Translation from the original, which is in the French language.

ARTICLE IV.

It is, nevertheless, understood that during a term of ten years, counting from the signature of the present Convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbours, and creeks upon the coast
58 mentioned in the preceding Article, for the purpose of fishing and trading with the natives of the country.

ARTICLE V.

All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind are always excepted from this same commerce permitted by the preceding Article; and the two Powers engage, reciprocally, neither to sell nor suffer them to be sold to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced in any case to authorize either search or detention of the vessels, seizure of the merchandize, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce; the High Contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this Article by their respective citizens or subjects.

ARTICLE VI.

When this Convention shall have been duly ratified by the President of the United States, with the advice and consent of the Senate on the one part, and on the other by His Majesty the Emperor of All the Russias, the ratifications shall be exchanged at Washington in the space of ten months from the date below, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed this Convention, and thereto affixed the seals of their arms.

Done at St. Petersburgh the 5th (17th) April, of the year of Grace one thousand eight hundred and twenty four.

[SEAL.] HENRY MIDDLETON.
[SEAL.] Le Comte CHARLES DE NESSELRODE.
[SEAL.] PIERRE DE POLETICA.

Convention between Great Britain and Russia.—Signed at St. Petersburgh, February 16 (28), 1825; Presented to Parliament May 16, 1825.

In the Name of the Most Holy and Undivided Trinity.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of All the Russias, being desirous of drawing still closer the ties of good understanding and friendship which unite them, by means of an Agreement which may settle, upon the basis of reciprocal convenience, different points connected with the commerce, navigation, and fisheries of their subjects on the Pacific Ocean, as well as the limits of their respective possessions on the north-west coast of America, have named Plenipotentiaries to conclude a Convention for this purpose, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honourable Stratford Canning, a Member of His said Majesty's Most Honourable Privy Council, &c.

And His Majesty the Emperor of All the Russias, the Sieur Charles Robert, Count de Nesselrode, His Imperial Majesty's Privy Councillor, a Member of the Council of the Empire, Secretary of State for the Department of Foreign Affairs, &c.; and the Sieur Pierre de Poletica, His Imperial Majesty's Councillor of State, &c.;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and signed the following Articles:

ARTICLE I.

It is agreed that the respective subjects of the High Contracting Parties shall not be troubled or molested in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following Articles.

ARTICLE II.

In order to prevent the right of navigating and fishing exercised upon the
by the subjects of the High Contracting Parties from becoming the p
59 for an illicit commerce, it is agreed that the subjects of His Britannic M
shall not land at any place where there may be a Russian establishment,
out the permission of the Governor or Commandant; and, on the other hand
Russian subjects shall not land, without permission, at any British establishm
the north-west coast.

ARTICLE III.

The line of demarcation between the possessions of the High Contracting Ps
upon the coast of the continent and the islands of America to the north-west,
be drawn in the manner following:

Commencing from the southernmost point of the island called Prince of
Island, which point lies in the parallel of 54° 40′ north latitude, and betwee
131st and the 133rd degree of west longitude (meridian of Greenwich), the sai
shall ascend to the north along the channel called Portland Channel, as far a
point of the continent where it strikes the 56th degree of north latitude; fro
last-mentioned point the line of demarcation shall follow the summit of the m
tains situated parallel to the coast, as far as the point of intersection of the
degree of west longitude (of the same meridian); and, finally, from the said po
intersection, the said meridian line of the 141st degree, in its prolongation as f
the Frozen Ocean, shall form the limit between the Russian and British posses
on the Continent of America to the north-west.

ARTICLE IV.

With reference to the line of demarcation laid down in the preceding Article
understood:

1. That the island called Prince of Wales Island shall belong wholly to Russ
2. That wherever the summit of the mountains which extend in a direction
lel to the coast, from the 56th degree of north latitude to the point of intersect
the 141st degree of west longitude, shall prove to be at the distance of more th
marine leagues from the ocean, the limit between the British possessions an
line of coast which is to belong to Russia, as above mentioned, shall be formed
line parallel to the windings of the coast, and which shall never exceed the dis
of 10 marine leagues therefrom.

ARTICLE V.

It is, moreover, agreed that no establishment shall be formed by either of th
Parties within the limits assigned by the two preceding Articles to the posse
of the other; consequently, British subjects shall not form any establishment
upon the coast or upon the border of the continent comprised within the lim
the Russian possessions, as designated in the two preceding articles; and, i
manner, no establishment shall be formed by Russian subjects beyond the
limits.

ARTICLE VI.

It is understood that the subjects of His Britannic Majesty, from whatever q
they may arrive, whether from the ocean or from the interior of the continent,
forever enjoy the right of navigating freely, and without any hindrance wha
all the rivers and streams which, in their course towards the Pacific Ocean
cross the line of demarcation upon the line of coast described in Article III
present Convention.

ARTICLE VII.

It is also understood that, for the space of ten years from the signature
present Convention, the vessels of the two Powers, or those belonging to
respective subjects, shall mutually be at liberty to frequent, without any hind
whatever, all the inland seas, the gulfs, havens, and creeks on the coast ment
in Article III, for the purposes of fishing and of trading with the natives.

ARTICLE VIII.

The port of Sitka, or Novo Archangelsk, shall be open to the commerce and v
of British subjects for the space of ten years from the date of the exchange
ratifications of the present Convention. In the event of an extension o
60 term of ten years being granted to any other Power, the like extension
be granted also to Great Britain.

ARTICLE IX.

The above-mentioned liberty of commerce shall not apply to the trade in spirituous liquors, in fire-arms, or other arms, gunpowder, or other warlike stores; the High Contracting Parties reciprocally engaging not to permit the above-mentioned articles to be sold or delivered, in any manner whatever, to the natives of the country.

ARTICLE X.

Every British or Russian vessel navigating the Pacific Ocean, which may be compelled by storms or by accident to take shelter in the ports of the respective Parties, shall be at liberty to refit therein, to provide itself with all necessary stores, and to put to sea again, without paying any other than port and lighthouse dues, which shall be the same as those paid by national vessels. In case, however, the master of such vessel should be under the necessity of disposing of a part of his merchandize in order to defray his expenses, he shall conform himself to the Regulations and Tariffs of the place where he may have landed.

ARTICLE XI.

In every case of complaint on account of an infraction of the Articles of the present Convention, the civil and military authorities of the High Contracting Parties, without previously acting or taking any forcible measure, shall make an exact and circumstantial report of the matter to their respective Courts, who engage to settle the same in a friendly manner, and according to the principles of justice.

ARTICLE XII.

The present Convention shall be ratified, and the ratifications shall be exchanged at London, within the space of six weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at St. Petersburgh the 16th (28th) day of February, in the year of our Lord One thousand eight hundred and twenty-five.

[L. S.] STRATFORD CANNING.
[L. S.] The Count DE NESSELRODE.
[L. S.] PIERRE DE POLETICA.

[Inclosure (B).]

List of Maps, with Designation of Waters now known as the Behring's Sea, with Date and Place of Publication.

[In these Maps the waters south of Behring's Sea are variously designated as the Pacific Ocean, Ocean Pacifique, Stilles Meer; the Great Ocean, Grande Mer, Grosse Ocean; the Great South Sea, Grosse Sud See, Mer du Sud. And they are again further divided, and the northern part designated as North Pacific Ocean, Partie du Nord de la Mer du Sud, Partie du Nord de la Grande Mer, Grand Océan Boréal, Nördlischer Theil des Grossen Sud Meers, Nördlischer Theil des Stillen Meers, Nördlische Stille Meers, &c. In all the Maps, however, the Pacific Ocean, under one of these various titles, is designated separate from the sea.]

	Name of Maps, &c.	Name of Sea.	Place of Publication.	Date.
	Accurate Charte von Nord Amerika, from the best sources.	Sea of Anadir.....	.....	Unknown.
	Map made under direction of Mikhael Gvosdef, Surveyor of the Sheetakof Expedition in 1730.	Kamtschatskisches Meer....	St. Petersburgh.	1743
	Mappemonde, by Lowitz	Mare Andiricum.....	Berlin	1746
	Geographical Atlas of the Russian Empire, Alexander Vostchinine.	Kamtschatka or Beavor Sea.	St. Petersburgh.	1748
	Carte de l'Isle de Ieso, corrected to date, by Philippe Buache, Academy of Sciences, and Geographer to the King.	Mer de Kamtschatka.....	Paris	1754
61	Müller's Map of the Discoveries by the Russians on the North-West Coast of America, prepared for the Imperial Academy of Sciences.	Sea of Kamtschatka.....	St. Petersburgh.	1758
	D'Anville's Map of the Western Hemisphere.	Sea of Anadir.....	Paris	1761
	Map of Hémisphère Septentrional, by Count Redfern, published by Royal Academy of Sciences.	Mer Dormant.....	Berlin	1762

List of Maps, with Designation of Waters now known as the Behring's Sea, etc.—Cont'd.

Name of Maps, &c.	Name of Sea.	Place of Publication.	Date.
Map published in the "London Magazine."	Sea of Kamtschatka.....	London.....	1764
Map by S. Bellin, Engineer of the Royal Academy.	" "	"	1766
Nouvelle Carte des Découvertes par les Vaisseaux Russes aux côtes inconnues de l'Amérique Septentrionale; Müller.	Mer de Kamtschatka and Mer d'Anadir.	Amsterdam.....	1766
Jeffery's American Atlas, printed by R. Sayers and J. Bennett.	Sea of Kamtschatka and Sea of Anadir.	London.....	1768-72
Road Map from Paris to Tobolsken.....	Sea of Kamtschatka.....	Paris	1769
Bowle's Atlas; Map of the World.....	Sea of Anadir.....	London	1770
Map of the Eastern part of the Russian Territory, by J. Truscott.	Mare Kamtschatkiensae.....	St. Petersburgh.	1771
Map of the New Northern Archipelago, in J. von Staehlin Storckaburg's Account of the Northern Archipelago, lately discovered by the Russians in the Seas of Kamtschatka and Anadir.	Sea of Kamtschatka and Sea of Anadir.	London.....	1774
Samuel Dunn's Map of North America...	Sea of Anadir.....	"	1774
Chart of Russian Discoveries from the Map published by the Imperial Academy of St. Petersburgh (Robert Sayer, print-seller), published as the Act directs.	Sea of Kamtschatka.....	"	1775
Jeffery's Atlas; Chart containing part of Icy Sea and adjacent Coasts of Asia and America; published in 1775, according to Act of Parliament, by Sayer and Bennett.	" "	"	1776
Jeffery's Atlas; Chart of the Russian Discoveries, from Map published by Imperial Academy of Sciences; published by Robert Sayer, March 2, 1775.	" "	"	1776
Atlas, Thomas Jeffery's (Geographer to King), American; Chart containing the Coasts of California, New Albion, and the Russian discoveries to the North.	" "	"	1776
Map in the French Encyclopædia.....	" "	Paris	1777
Schmidt's Atlas.....	" "	"	1777
Jeffery's Atlas.....	" "	London	1778
Carte der Entdekun gen Zwischen Siberia und Amerika to the year 1780.	Kamtschatkische Meer.....	.....	1780
Map of the New Discoveries in the Eastern Ocean.	Kamtschatka or Beaver Sea..	St. Petersburgh.	1781
St. Petersburgh Atlas	Sea of Kamtschatka.....	" "	1782
Halbkugel der Erde, by Bode.....	Kamtschatka Sea.....	Berlin	1783
Chart of the North-West Coast of America and the North-East Coast of Asia, prepared by Lieutenant Henry Roberts, under the immediate inspection of Captain Cook; published by William Faden	Sea of Kamtschatka.....	London.....	1784
Map of the Empire of Russia and Tartary, by F. L. Gulsefeld.	Kamtschatkische oder Biber Meer.	Nuremburg.....	1786
Map of Discoveries made by the Russians and by Captain Cook; Alexandre Vilbrech.	Sea of Kamtschatka.....	St. Petersburgh.	1787
Dunn's Atlas; Map of the World	" "	London	1788
D'Auville's Atlas; Map of the World, with improvements; prepared for J. Harrison, as the Act directs.	" "	"	1788
Meares' Voyages; Chart of North-West Coast of America.	" "	"	1790
Chart of the World, exhibiting all the new discoveries to the present time, with the tracts of the most distinguished navigators from the year 1700, carefully collected from the best Charts, Maps, Voyages, &c., extant, by A. Arrowsmith, Geographer, as the Act directs.	" "	"	1790
62 Chart of the Great Ocean, or South Sea, conformable to the account of the voyage of discovery of the French frigates "La Boussole" and "L'Astrolabe;" La Pérouse.	" "	Paris	1791
Karte des Nordens von Amerika; G. Forster.	Kamtschatka Sea.....	Berlin	1791
Greenough's Map in Wilkinson's Atlas..	Sea of Kamtschatka.....	London.....	1791

Maps, with Designation of Waters now known as the Behring's Sea, etc.—Cont'd.

Name of Maps, &c.	Name of Sea.	Place of Publication.	Date.
he North-Eastern part of Siberia, ozen Sea, the Eastern Ocean, and Western Coasts of America, in- ig Billings' expedition.	Kamtschatka Sea.....	St. Petersburgh.	1791
nith's Map of the World	Sea of Kamtschatka.....	London	1794
on Amerika, F. L. Gulscfeld....	Kamtschatkisches Meer.....	Nurnberg.....	1796
f Mathew Carey; Map of the from the best authorities, and f Russian Empire in Europe and	Sea of Kamtschatka.....	Philadelphia....	1796
f North America, by J. Wilkes, ct directs."	" "	London.....	1796
gel der Erde.....	Kamtschatka Sea.....	Nuremberg	1797
on Nord Amerika, by F. L. feld.	Kamtschatkisches Meer.....	Nurnberg.....	1797
elmarche's Atlas; Mappemonde, bert du Vaugondy, including new veries of Captain Cook.	Sea of Kamtschatka.....	Paris	1797
ouse's Chart of the Great Ocean, uth Sea, conformably to the dis- ies of the French frigates "La ole" and "L'Astrolabe," pub- l in conformity with the Decree French National Assembly, 1791, lated and printed by J. Johnson.	" "	London.....	1798
ther's Marine Atlas.....	" "	"	1799
ugh's Atlas; Map by Vibrecht ed "Carte de la Côte Nord-Ouest Amérique Septentrionale," and ing the discoveries of the Rus- and Portlock and Dickson.	Mer de Kamtschatka	Edinburg.....	1800
son's General Atlas; a new Mer- s Chart drawn from the latest veries	Sea of Kamtschatka.....	London	1800
the World; Graberg.....	Bacino di Behring	Genova.....	1802
agazine, composed according to test observations of foreign navi- s, corrected to 1802.	Beaver Sea or Sea of Kamtschatka.	St. Petersburgh.	1802
Meer von Kamtschatka, with the s of Captain Jos. Billings and Sauer, drawn by Fred. Gotze, to pany Report of Billings' Russian d Visit to Aleutia and Alaska.	Meer von Kamtschatka.....	Weimar	1803
es Ganzen Erdkreises, by Chris- ottlieb Reichard.	Meer von Kamtschatka.....	"	1803
mith's General Atlas.....	Sea of Kamtschatka.....	London.....	1804
Savrilis Sarytscheff's journey in orth-East Sea.	" "	Leipsic	1805
h Morse's Map of North America.	" "	Boston.....	1805
Wilkinson's General Atlas; new dor's Chart.	" "	London.....	1807
the Russian Empire, adopted by eneral Direction of Schools.	Kamtschatka or Beaver Sea..	St. Petersburgh.	1807
Map of the travels of Captain ain.	Kamtschatka Sea.....	" " .	1807-9
Carey's Atlas	Sea of Kamtschatka.....	London	1808
ant Roberts' Chart, improved to	" "	"	1808
onde in Atlas of Malte-Brun....	Bassin de Behring.....	Paris	1809
Atlas	Sea of Kamtschatka.....	London.....	1810
es Grossen Oceans, usually the Sea; Sotzmann.	Kamtschatkisches Meer.....	Hamburg.....	1810
m Amerika; Streits	Sea of Kamtschatka.....	Weimar	1810
nith's Map of North America....	" "	London.....	1811
the World in Pinkerton's Atlas..	" "	"	1812
Lapie.....	Bassin du Nord.....	Paris	1812
l'Amérique, rédigée d'après celle owsmith, en quatre planches et se aux observations astrono- s de M. de Humboldt;" by Cham- pion.	Bassin de Behring.....	"	1813
ap of Oceania, or the Fifth Part of the World, including a portion erica and the coasts of Asia, by ie.	Bassin du Nord.....	"	1814
General Atlas; Samuel and s Neele.	Sea of Kamtschatka.....	London.....	1814
on Amerika; Geographic Insti-	Meer von Kamtschatka.....	Weimar	1814

Chart also designates the coast from Columbia River (49°) to Cape Elizabeth (60°) as the West Kuste."

List of Maps, with Designation of Waters now known as the Behring's Sea, etc.—Cor

Name of Maps, &c.	Name of Sea.	Place of Publication.	Dat
Map of the World, by Von Krusenstern.	Meer von Kamtschatka	St. Petersburgh.	
Encyproptype de l'Amérique Septentrionale, by Brué.	Bassin du Nord	Paris	
Smith's General Atlas	Sea of Kamtschatka	London	
Allgemeinewelt Charte, with Voyage of Krusenstern.	" "	"	
Grand Atlas Universel, edited by Ches Desray; Mappemonde, by Goujon, Geographer.	Bassin du Nord	Paris	
Atlas Elémentaire, by Lapie et Poirson	Bassin du Nord ou de Behring.	"	
Amérique Septentrionale et Méridionale; Lapie.	Mer de Behring ou Bassin du Nord.	"	1
Map in Thompson's Atlas	Sea of Kamtschatka	Edinburgh	1
Fielding Lucas' Atlas	" "	Baltimore	1
Reichard and Von Haller's German Atlas.	" "	Weimar	1
Map in Greenough's Atlas	" "	Edinburgh	1
John Pinkerton's Modern Atlas	" "	Philadelphia	1
Map engraved by Kirkwood and Sons	" "	Edinburgh	1
Chart of the Russian and English Discoveries in the North Pacific Ocean, by Captain James Burney, F. R. S.	" "	London	1
Carte Générale de l'Amérique; De Lamarche.	Mer de Behring ou Bassin du Nord.	Paris	1
Carte de l'Amérique Septentrionale et Méridionale; Hennon.	Bassin du Nord	"	1
Chart of Alaska, by J. K. Eyries and Malte-Brun.	Behring Sea	"	1
Chart of the Arctic Ocean and North America, by Lapie.	" "	Weimar	1
Carte Générale du Globe; Brué	Mer de Behring	Paris	1
Mappemonde; Tardieu	Mer de Behring	"	
Atlas of La Vogne; M. Carey	Sea of Kamtschatka	Philadelphia	
Atlas Universel of A. H. Brué	Mer de Behring	Paris	
Mappemonde; Herisson	Mer de Behring	"	
Map to illustrate the Voyage of Kotzebue.	Sea of Kamtschatka	St. Petersburgh.	
Fielding Lucas' Atlas	" "	Philadelphia	
Fielding Lucas' Atlas	" "	Baltimore	
Amérique Septentrionale; Lapie	Mer de Behring	Paris	
Atlas Classique et Universel, by M. Lapie.	Mer de Behring ou Bassin du Nord.	"	
Anthony Finley's Atlas	Sea of Kamtschatka	Philadelphia	
Atlas of Buchon; Cartes des Possessions Russes.	Bassin du Nord	Paris	
Map in Butler's Atlas	Sea of Kamtschatka	London	
Atlas Historique de la Sage	Mer de Behring	Paris	

[Inclosure (C).]

Section 4 of "An Act for regulating the Intercourse with the Island of St. Helena during the time Napoleon Bonaparte shall be detained there, and for indemnifying Per in the cases therein mentioned (11th April, 1816).

Section 4. *And be it further enacted*, that it shall and may be lawful for the G ernor, or, in his absence, the Deputy Governor, of the said Island of St. Helena, all necessary ways and means, to hinder and prevent any ship, vessel, or boat f repairing to, trading, or touching at said island, or having any communication w the same, and to hinder and prevent any person or persons from landing upon said island from such ship, vessel, or boats, and to seize and detain all and every son and persons that shall land upon the said island from the same; and such ships, vessels, or boats (except as above excepted) as shall repair to touch at, the said island, or shall be found hovering within 8 leagues of coast thereof, and which shall or may belong, in the whole or in part, to any subj or subjects of His Majesty, or to any person or persons owing allegiance to Majesty, shall and are hereby declared to be forfeited to His Majesty, and shall may be seized and detained, and brought to England, and shall and may be pr cuted to condemnation by His Majesty's Attorney-General, in any of His Majes Courts of Record at Westminster, in such manner and form as any ship, vessel boat may be seized, detained, or prosecuted for any breach or violation of the N igation or Revenue Laws of this country; and the offence for which such ship, v sel, or boat shall be proceeded against shall and may be laid and charged to h been done and committed in the County of Middlesex; and if any ship, vessel,

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boat, not belonging in the whole or in part to any person or persons the subject or subjects of, or owing allegiance to, His Majesty, his heirs and successors, shall repair to, or trade or touch at, the said Island of St. Helena, or shall be found hovering within 8 leagues of the coast thereof, and shall not depart from the said island or the coast thereof when and so soon as the master or other person having the charge and command thereof shall be ordered so to do by the Governor or Lieutenant-Governor of the said island for the time being, or by the Commander of His Majesty's naval or military force stationed at or off the said island for the time being (unless in case of unavoidable necessity or distress of weather), such ship or vessel shall be deemed forfeited, and shall and may be seized and detained and prosecuted, in the same manner as is hereinbefore enacted as to ships, vessels, or boats of or belonging to any subject or subjects of His Majesty.

No. 20.

Messrs. Lampson and Co. to Foreign Office.—(Received December 30.)

64, QUEEN STREET, *London, December 30, 1890.*

SIR: Since we addressed you on the 6th September last, the number of fur seal-skins taken in the Behring's Sea and landed at Victoria has increased to such an extent, that the total catch, instead of being less, actually exceeds that of last year.

This somewhat unexpected increase appears to have been due, apart from the favourable weather, to the larger number of schooners engaged in the fishery, and to the fact that the United States Government Revenue-cutters did not in any way interfere with the fishing operations.

We are informed that Professor Elliott, who has been commissioned by the United States Government to examine into the condition of the Seal Islands, in the Report submitted to his Government speaks of the total extinction of seal life as being a question of only a few years, and advocates that no more seals should be killed, even on the islands, for some time to come.

We have had the honour to point out to you how important an industry, at present centred in London, depends on the continuance of the supply of fur seal-skins, and how many people, now engaged in this industry, would by its disappearance be thrown out of work.

This industry appears now to be threatened by a new danger of an unexpected kind. From information received, we learn that the United States Government, probably with the view of influencing the decision of Her Majesty's Government in the Behring's Sea fishery dispute, will propose to raise the duty on British manufactured fur seal-skins from 20 to 50 per cent. *ad valorem*. To estimate the importance of this measure, we should mention that, for many years past, of the Alaska fur seal-skins annually consigned to London, no less than 75 per cent. have been bought for American account and reshipped to the United States after having been manufactured in London. Should the United States Government carry out their proposal, the skins destined for American consumption would undoubtedly be manufactured in the United States, with the result that another important British industry would pass away to a foreign country.

We confidently trust that Her Majesty's Government may see its way to protect these important British home interests, by arriving at a speedy settlement of the present dispute.

We have, &c.

(Signed) C. M. LAMPSON AND CO.

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No. 21.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *December 30, 1890.*

SIR: I have received your despatch of the 16th instant, reporting that you had handed to Mr. Blaine a copy of my despatch of the 22nd October last in regard to my conversation with Mr. Phelps on the 22nd February, 1888, on the subject of the Behring's Sea controversy.

I have to inform you that your language to Mr. Blaine, when communicating to him the despatch in question, is approved.

I am, &c.

(Signed) SALISBURY.

No. 22.

Colonial Office to Foreign Office.—(Received January 1, 1891.)

DOWNING STREET, *December 31, 1890.*

SIR: With reference to your letter of the 13th September last, forwarding copy of a letter from Sir C. Lampson and Co.* respecting the probable early extinction of the seals in Behring's Sea, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, transmitting an approved Minute of the Dominion Privy Council embodying a Report by the Minister of Marine and Fisheries on the statements contained in Messrs. Lampson's letter.

I am to request that the inclosures to Lord Stanley's despatch, which are sent in original, may be returned, with a printed copy in the event of their being printed at the Foreign Office.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure 1 in No. 22.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, November 28, 1890.*

MY LORD: With reference to the representations contained in the letter from Sir C. Lampson and Co. to the Foreign Office of the 6th September last, copy of which was inclosed in your Lordship's despatch of the 24th of that month, to the effect that there was likelihood of the early extinction of the fur-seal species unless a close season were at once established, I have the honour to forward to your Lordship a copy of an approved Minute of the Privy Council, embodying a Report by the Minister of Marine and Fisheries on the subject.

Your Lordship will observe that the Minister contends that there is no good reason for believing that the extinction of the species is likely to be brought about, furnishing statistics of the Canadian catch for the past season, and adducing evidence drawn from United States sources in support of his contention.

I have, &c.

(Signed) STANLEY OF PRESTON.

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*No. 6.

[Inclosure 2 in No. 22.]

ort of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 15th November, 1890.

he Committee of the Privy Council have had under consideration a despatch ed the 24th September, 1890, from the Colonial Office, transmitting a copy of a er from Sir C. M. Lampson and Company to the Foreign Office, under date the September, 1890, on the subject of a close season for seals in Behring's Sea.

he Minister of Marine and Fisheries, to whom the papers were referred, submits following observations thereon:

hat Sir C. Lampson and Co. state in effect:

That the total extinction of the fur-seal has come within measurable distance, unless a close season can be arranged immediately the animal will become extinct a very short time.

That as the seals taken by the Canadian schooners at sea are females and pups hose visiting the breeding islands, this industry will of necessity disappear with extinction of the seal.

. That the fur-seal fishery in Behring's Sea has been a failure this season, the al catch being far below those of preceding years, although the fishing-vessels do appear to have been molested by United States Government cruizers.

he Minister observes that statements similar to those contained in the paragraphs rked 1 and 2 above were made before the Committee of Congress in 1889, and eated in despatches of the Government of the United States to the British Gov- ment at different times since 1885.

hat at the recent Conference in Washington (1890) these allegations were form- reiterated in a paper prepared by Mr. Blaine, it having been understood at this e that the Minister of Marine and Fisheries would put before the Conference the horities upon which the Canadian Government denied their accuracy, so that the dence on each side might be discussed, examined, and compared.

he Minister of Marine and Fisheries accordingly prepared a Memorandum in ich he, among other things, proved from United States authorities that the seals re still frequenting the islands in Behring's Sea in enormous numbers, and were ually on the increase. It was also shown that the seals taken by Canadian seal- in Behring's Sea were, for the most part, males. Appended to the present Report l be found an extract from the Memorandum mentioned above containing refer- es to authorities touching these points (marked Appendix "A").

he Minister deems it important to mention that, after those authorities were ced before the Conference, Mr. Blaine declined to proceed with the discussion of two briefs.

t was then proposed by the British Representative that a joint inquiry into the ts in controversy should be made by experts on the islands and in the sea, and t a temporary close season should be agreed upon for a period of two years and alf. This proposition was also declined by the Government of the United States.

leanwhile, however, it appears that the Secretary of the Treasury of the United tes appointed Henry W. Elliot a Special Agent to the Treasury to make an *ex te* examination in regard to the Alaska fishery interests, under the provision of a cial Act Congress, approved the 5th April, 1890.

While the Minister has not enjoyed the advantage of perusing Mr. Elliot's special ort, nevertheless, from the press of the United States, and from the leading iews published in that country, it is evident that the present lessees of the bylov group have not been less zealous than their predecessors in circulating rming statements concerning the fur-seals. Mr. Elliot has perhaps again con- ded that the rookeries are being ruined, and that his opinions given to Congress ore this mission to the islands have been confirmed.

n the "New York Herald" of the 16th August, 1890, a letter appeared purporting manate from D. H. James, of the United States cutter "Rush," dated Ounalaska, 26th July, in which that gentleman says:

A startling state of affairs exists at the Seal Islands this year. . . . This year rookeries are almost deserted, . . . rocks that were once covered with seals now being grown over with moss. . . . The cause assigned is that the seal- fleet, which is now increased and composed of larger and better vessels, has fol- lowed the seals so closely and pursued them so ruthlessly."

This writer adds:

"It is thought the sealers will not catch enough to pay expenses."

lefore dealing with such sensational reports from those interested in the mainte- ice of a monopoly of the fur-seal business, it is well to note that from the first of discussion to the present time not a suggestion has been made by the United ites authorities that it would be advisable to restrict the pursuit of the fur-seal the Californian and British Columbian coasts, where it is admitted that many

seals in pup are captured and killed before their final departure for the breeding-grounds in Behring's Sea.

Though the proposition for a joint inquiry into the condition of the Seal Islands was not entertained by the United States, the statistics and reports from the vessels which proceeded from British Columbia are such as to lead the Minister of Marine and Fisheries to doubt the accuracy of *ex parte* reports regarding the diminution of seal life during the season of 1890, and to which Messrs. Sir C. Lampson and Co. draw special attention.

The total catch by Canadian sealers fitted out in British Columbia in 1889 amounted to 27,960. The catch so far reported by these vessels in 1890 amounts to 39,547. The catch of vessels and sold in British Columbia was no less than 43,315 skins. The catch from the Siberian coast is reported to be large. Judging from recent years the catch will be, at Commander Islands, 45,000; Lobos Islands, 15,000; islands near Cape Horn and South Polar Sea, 10,000; Seal Islands, Okhotsk Sea, 4,000; Japan, 7,000; Cape of Good Hope, 5,000.

These statistics, while meeting the fears of all interested in the preservation of seal life, are undoubtedly alarming to the lessees of the Pribylov group, who, relying upon securing a monopoly of the fur-seal industry of Behring's Sea, were induced to make a contract with the United States Government, whereby they agreed to pay the enormous and unprecedented royalty of 10 dol. 25 c. on every seal taken by them, upon which their predecessors and unsuccessful tenderers for the present lease gave only 2 dol. 62½ c. a-skin. It is consequently quite likely that these lessees cannot afford with such a royalty to catch their full quota of 60,000 this year, and so a reduction of the number actually put upon the market tends to increase the price of those skins sold. It may not be out of place in this connection to make further reference to the energetic manner in which those interested in the monopoly endeavour to excite alarm regarding the probable extinction of fur-seals.

Mr. D. O. Mills, of New York, is supposed to be the most largely interested of the present lessees of the Seal Islands in Behring's Sea. He does not pretend to expert knowledge nor to have visited the seal rookeries. An article written by him in the "North American Review" for September 1890 is remarkable for the following extraordinary statements connected with seal life, and unsupported by any other authority than his signature:

"There is the best evidence that the poachers confine themselves almost exclusively to this commercially precious female portion of the herd, . . . for the male seal is strong and alert, and no hunter can get within shooting distance of him, as he can generally escape from the fastest boat pursuing them. . . . In two or three years most of the females would be destroyed, with their young, and in a comparatively short time the entire family would be extinguished. . . . They live only upon fish, and must therefore go to the water for their food. The large fishing banks on which the Pribylov seals must depend for subsistence are from 30 to 60 miles distant from the islands, and if the females are killed by the hunter there while feeding, the pup left on the island, which does not become able to take care of itself until after September, loses its protector and dies. . . . Fire-arms are freely used by the poachers, however. Indeed, that is their chief instrument of slaughter, and the effect of attacking the herds in the water with flotillas of boats, while the air is filled with the sharp reports of guns, is injurious in the extreme."

These statements are, in the main, contradicted by the Reports of the United States officials, to which the Minister of Marine and Fisheries refers in his Memorandum hereinbefore mentioned.

The Minister, so soon as the communication of Messrs. Sir C. Lampson and Co. was referred to him, at once caused thorough and careful investigation through the Collector of Customs at the port of Victoria, British Columbia, to be made into the experience of the British Columbian sealers who have hunted in Behring's Sea during the season of 1890. The result of this investigation establishes—

That, owing to stormy and boisterous weather in Behring's Sea, the prevalence of much fog, and particularly to a change by the seals of their usual haunts, as hereinafter mentioned, the early sealers of this season returned with a shorter catch than usual.

Volcanic disturbances on Ounalaska and neighboring islands are said to have occurred this season.

68 The vessels which remained in the sea, after finding the main body of the seals on their new grounds, made the best catches, and all the masters of the Canadian sealers testify to the extraordinary number of seals still frequenting this sea.

More seals were found to the north and eastward of the Islands of St. Paul and St. George, distant therefrom between 40 and 60 miles, than formerly. Heretofore they had been more plentiful to the westward of these islands, and distant therefrom about 40 miles.

The old Alaska Company, which now holds a lease of Copper Island, on the Russian side, killed no less than 42,000 seals.

The present lessees of the Pribylov group, instead of taking 60,000 on the leased islands, and paying the enormous royalty of 10 dol. 25 c. upon each skin, took only 21,000 from these islands. They, however, bought the whole coast and Sand Point catch of the pelagic sealers, at from 10 to 11 dollars for each skin, and so the price of skins in London is kept high.

Appended to this Report is a Table showing the catch of— Appendix (C).

1. The Canadian sealing fleet, 1890.
2. Foreign vessels' catch sold in Victoria, showing a total catch of the above (1 and 2) for 1890 of 43,315 skins, worth 493,160 dollars, against 35,310 skins in 1889, worth 247,170 dollars.
3. Names and value of Canadian sealing-vessels, with outfit, crews, boats, and canoes.
4. Vessels carrying part Indian crews.
5. Vessels and catch of Victoria sealing fleet for 1890.

The Minister of Marine and Fisheries desires to take advantage of this opportunity to draw attention to further testimony corroborating the views previously expressed by the Canadian Government upon the subject of the seal fishery, and given in the Memorandum to which reference has already been made in this Report. Since the date of that paper evidence taken by the Committee of Congress appointed to inquire into the relations of the United States with Canada has been published. Relations with Canada, p. 314 of Evidence.

James G. Swan, Esq., of Port Townsend, is described before the Committee as a man who has given much attention to the fisheries of Behring's Sea, both for his own information and for that of the United States Fish Commission.

He produced a Report of the Board of Trade of Port Townsend, Washington Territory, in which this Chamber of Commerce denounce the closing of Behring's Sea as a "species of class legislation for the benefit of the wealthy few." Ibid., p. 265.

Mr. Swan advocated free fishing in the open sea, and explained at length that a valuable Report of his, wherein he expressed views opposed to those of Mr. Elliot, was suppressed; and, he adds: "The arguments and assertions of the Alaska Commercial Company that the fur-seals all go to the Pribylov Islands, and would be exterminated if that Company did not have the care and protection of them, would easily be disposed of if both sides of the argument could be heard and the real facts made known." Ibid., p. 265. Ibid., pp. 268 269.

Further on he says: "Congress and the country [have] been systematically kept in darkness regarding the fur-seal fisheries in Behring's Sea, for those who have had the information to impart have had an interest directly opposed to imparting it." Ibid., p. 269.

Mr. Swan denies there is any danger of extermination of seals, and produces sworn declarations touching the existence of seals at places which witness now claims the seals have abandoned. Finally, Mr. Swan is asked by Senator Pugh: Ibid., p. 269.

"You do not think it is of any importance to prevent the destruction of seals?" He answers, "I do, on the islands, but not on the outside, because the proportion of seals that are destroyed is a very small fraction of what the whole number is. There are millions of seals in the Pacific Ocean. You have no conception of the vast myriads of them." Ibid., p. 269.

The Statistical Agent of the United States Fish Commission, Mr. Wm. A. Wilcox, was asked by Senator Hall, "Do you think the seal is manifestly disappearing?" and he replied, "I have no reason to think so. I think they have been seen this past year in almost as innumerable numbers as ever." Ibid., p. 215.

Mr. Swan did not believe that for every seal taken several were killed. He refers to the shyness and intelligence of the seal, and to the fact that they are never taken when in motion. Appendix (D). Appendix (E). Appendix (F).

Captain Joshua Brown said as follows: Appendix (G).

(See Appendix G).

This testimony, it will be seen, supports the statements of the Canadian sealers already pleaded before Her Majesty's Government, and affords further assurance that the pursuit of seals in the deep waters of Behring's Sea does not tend to extinguish seal life.

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The Committee, concurring in the above Report, recommend that your Excellency be moved to forward a copy hereof to the Principal Secretary of State for the Colonies for submission to Her Majesty's Government, and that a copy be also sent to the High Commissioner for Canada in London for his information.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk, Privy Council.

APPENDIX.

APPENDIX (A).

Seal Fishery of Behring's Sea. Washington, 1890.

[Pages 41, 42, and 43.]

Mr. George Tingle, a Special Agent of the Treasury, gave his evidence before the same Committee, and he is put forward by Mr. Blaine in support of the United States contention. (Appendix to Mr. Blaine's letter to Sir Julian Pauncefote, 1st March, p. 17.)

Confirming Mr. Gliddon's opinion, as above quoted, Mr. Tingle says:

"From Mr. Elliott's statement I understand that there are no more seals now than there were in 1872. I am at a loss to know how Mr. Elliott got his information, as he had not been on the islands for fourteen years."

The same Mr. Tingle in 1887 reported to Secretary Fairchild that—

"He found the lines of occupancy extending beyond those of last year, and the cows quite as densely packed on the ground on most of the rookeries, whilst on two rookeries there is some falling-off. It is certain, however, this vast number of animals, so valuable to the Government, are still on the increase. The condition of all the rookeries could not be better." (Appendix to Report, Congressional Committee, 1888, p. 359.)

In a Report of the Alaska Commercial Company (13th December, 1887), it is stated that Mr. George R. Tingle, the Agent appointed by the Secretary of the Treasury, substantially confirms Mr. Elliott in his view referred to above, excepting that, upon a careful survey by himself in 1886, he estimated that the fur-seals upon the two islands had increased in number about 2,000,000 up to that time. Mr. Tingle's estimate for 1886 is 6,537,750 (H. R. Ex. Doc. No. 31, 50th Congress, 1st Session), and in December the Alaska Commercial Company, in their Report, said that the seals were on the increase.

The latest definite information appearing in the United States documents regarding the condition of the rookeries is contained in the Report of Mr. Tingle, who, as Special Agent of the Treasury Department, wrote from St. Paul Island, Alaska, the 31st July, 1888, as follows:

"I am happy to be able to report that, although late landing, the breeding rookeries are filled out to the lines of measurement heretofore made, and some of them much beyond these lines, showing conclusively that seal life is not being depleted, but is fully up to the estimates given in my Report of 1887."

From the above United States officials it is clear that, with only partial protection on the islands, the seals have increased in an amazing degree. These islands, containing in 1874 the largest number of seals ever found in the history of sealing at any place, contain to-day a more astounding number.

When the number was less than half of what it is at present, Lieutenant Washburn Maynard, of the United States navy, was instructed to make an investigation into the condition of the fur trade of the Territory of Alaska, and in 1874 he reported that 112,000 young male seals had been annually killed in each year from 1870 to 1874 on the islands comprising the Pribylov group, and he did not think that this diminished the numbers. Lieutenant Maynard's Report (44th Congress, 1st Session, H. R. No. 43), as well as that of Mr. Bryant in 1869 (Ex. Doc. No. 32, 41st Congress, 2nd Session), largely supports the contention of the Canadian Government respecting the productiveness of the seal and their habits during the breeding season.

It is not denied that seals enter Behring's Sea for the purpose of resorting to the islands to propagate their species, and because the immense herd is chiefly confined to the islands for this purpose during the breeding season it is that the seals have so constantly increased.

Notwithstanding the lax efforts on the part of the United States to guard or patrol the breeding islands, the difficulty of approaching the rough coasts thereof, the prevalence of fogs, and other causes, have in a large degree prevented too destructive or too numerous raids being made upon the rookeries.

The Canadian Government contends that while seals in calf are taken on and off the coasts of British Columbia and California, and also during their migrations near

he Aleutian Islands by Indians and Aleuts, the bulk of the seals taken in the open
ea of that part of the Pacific Ocean called Behring's Sea are bulls both old and
oung—but chiefly young—and that most of the cows when taken are known as
dry cows," *i. e.*, cows that have nursed and weaned their young, or cows that are
barren, or those that have lost pups from natural causes.

0 It must also be noted that there are more females than males in a herd of seals. ("Trip to Alaska," Wardman, p. 94.)

The position taken by the Canadian Government is supported—

1. By the histories of the rookeries as above given, and the great increase shown lespite the constant killing and raids upon the islands during the past century.

2. By the fact that the old bulls that have been able to hold their position on the ookeries go into the water at the end of the rutting season between the 1st and 10th ugust. (H. R. Ex. Doc. No. 83, 44th Congress, 1st Session, Appendix, p. 132.)

Mr. Clark, on the Antarctic seal fisheries, in "The Fisheries and Fishery Industries n the United States," 1887, pp. 423–424, says:

"In very stormy weather, when they (the seals) are driven into the sea, they are orced to betake themselves to the sheltered side of the island, hence the men find hat stormy weather pays them best. Two or three old males, termed 'beach masters,' hold a beach to themselves and cover it with cows, but allow no other males to haul up. The males fight furiously, and one man told me that he had seen an old male take up a younger one in his teeth and throw him into the air. The males show fight when whipped, and are with great difficulty driven into the sea.

"They are sometimes treated with horrible brutality. The females give birth to the young soon after their arrival.

"After leaving the rookeries the bulls do not return to them again that season."

3. By the fact that two-thirds of all the males that are born are never permitted to land upon the same ground with the females. This large band of bachelors, when it visits land, herds mile away from the breeding-grounds. (W. H. Elliott, H. R. No. 3883, 50th Congress, p. 112.)

They are driven off into the water. (Clark's article on Antarctic seal fishery industries of the United States, section 5, vol. ii, 1887, p. 431.)

Young seals are prevented from landing on rookeries. (Ex. Doc. 83, 44th Congress, 1st Session, p. 23; see also Elliott, H. R., 44th Congress, 1st Session, Ex. Doc. No. 83.)

Yearling seals arrive about the middle of July, accompanied by a few of the mature males, remaining a greater part of the time in water. (H. H. McIntyre, 41st Congress, 2nd Session, H. R. No. 36, p. 14; also H. R. Ex. Doc. No. 43, 44th Congress, 1st Session, p. 4.)

Mr. Samuel Falkner, Assistant Treasury Agent, writing from St. George Island, 1st August, 1873, to Mr. Bryant, Treasury Agent for the Seal Islands, says:

"I notice on some of the rookeries the passage-ways formerly occupied by young bachelors in hauling upon the back-ground are completely blocked up by females, thus preventing the young seals from landing, and as the greater portion of this island shore is composed of high cliffs, it renders it difficult for any great number o effect a landing. There are also numerous old males constantly guarding the hore-line, which makes it still more difficult for the young ones to work their way n the back-ground."

Then, again, it must be remembered that the non-breeding seals, consisting of all ie yearlings and all the males under 6 or 7 years of age, nearly equal in number the reeding seals; and Mr. Elliott estimated, when there were 4,700,000 seals on the lands, 1,500,000 of this number were non breeding seals. (Elliott, Appendix to . R. Ex. Doc. No. 83, 44th Congress, 1st Session, p. 79.)

On thick foggy days bachelor seals, numbering over a million, will often haul out different hauling-grounds, and on the recurrence of fine weather disappear into e water. (Elliott, p. 144, H. R., 44th Congress, 1st Session, Ex. Doc. No. 83.)

The young bachelors do not remain on shore long at a time (p. 4, 44th Congress, 1st ession, Ex. Doc. No. 43). They are so numerous, however, that thousands can be en upon the hauling-grounds, as all of them are never either on shore or in the ater at the same time (*ibid.*, p. 44). By the fact that the cows remain with their ps and suckle them until all have left.

They do not go on the rookeries until 3 years of age. (H. R. Ex. Doc. No. 43, 44th ngress, 1st Session, p. 4.)

They do not go far from shore until the young are reared. Peron says that both rent elephant seals stay with the young, without feeding at all, until the young e 6 or 7 weeks old, and that then the old ones conduct the young to the water. lark's article on Antarctic seals, p. 424.)

The young are suckled by the females for some time and then left to themselves ing on the beach, where they seem to grow fat without further feeding. ("The sheries and Fishing Industries of the United States," section 5, vol. ii, 1887, p. 424.)

or this reason, those that are pupped in June are off in the water in August.

So also on the African coast the seal remains until the young can take care of themselves. (*Ibid.*, p. 416.)

The bulk of the seals are confined to the islands until ice surrounds them. (H. R. Ex. Doc. No. 45, 44th Congress, 1st Session, p. 2.)

The seals never leave their places, seldom sleep, and never eat anything from May to August, when they take to the water, but, it is believed, take no food until their final departure in November. (H. H. McIntyre, H. R. Ex. Doc. No. 36, 41st Congress, 2nd Session, vol. v.) Mr. Elliott says "Perhaps she feeds" (p. 130 of his Report on Alaska). (1874, H. R. Ex. Doc. No. 83, 44th Congress.)

The bulls while on the island prevent the mothers taking to the water. ("Marine Mammals," by Captain Shannon, United States Revenue Marine, 1874, p. 152.)

From the 10th to the 25th July the rookeries are fuller than at any other time during the season, as the pups have all been born, and all the bulls, cows, and pups remain within their limits. (H. R. Ex. Doc. No. 43, 44th Congress, 1st Session, p. 3.)

It has been shown that when in the rookeries mothers were destroyed, the young were found dead, &c., but Professor Elliott, in reference to the Pribylov Islands, says:

"With the exception of those animals which have received wounds in combat, no sick or dying seals are seen upon the islands.

71 "Out of the great numbers—thousands upon thousands—of seals that must die every year from old age alone, not one have I ever seen here. They evidently give up their lives at sea." (His Report on Alaska, 1874, H. R. Ex. Doc. No. 83, 44th Congress, p. 150.)

APPENDIX (B).

Extract from Letter from Captain Solomon Jacobs, from on board the Schooner "Mollie Adams," Port Townsend, Washington, May 6, 1889.

Relations with Canada, p. 314.

As I intend to sail to-day on a voyage north for fishing and sealing, I shall not be able to see you regarding the fisheries of the North Pacific Ocean, Behring's Sea, and Alaskan waters, but will refer you to James G. Swan, Esq., of Port Townsend, who has given more attention to obtaining information about these fisheries, both for his own satisfaction and for the United States Fish Commission, with whom he has corresponded, and acted ever since it was first formed, than any man I have seen on the Pacific coast, and you can rely entirely upon the information he may give you.

I will also refer you to Mr. Joshua Brown, of Salem, Massachusetts, owner of schooner "Henry Dennis," who is now here; also to Captain Lavender, of schooner "Henry Dennis," who can give information regarding the fur-seals at Cape Horn, as he has recently arrived from there.

* * * * *

James G. Swan.

Ibid., p. 265.

Behring's Sea must be declared free and open to all our citizens except the adjacent waters to the Pribylov Islands, which should not exceed in limit the distance from the shores of those islands of 1 marine league, inside of which limit the seals should be preserved during the months of breeding, as belonging to the rookeries owned by the United States, but outside of that limit the waters should be free to all of our citizens.

* * * * *

Extract from Report of Board of Trade of Port Townsend.

Ibid.

We do not believe that the lease of the "Pribylov Islands and adjacent waters" ever was meant or intended to mean the whole waters of Behring's Sea, but that the limit of 1 marine league from the shore is the recognized limit, outside of which the waters are known to the civilized world as the high seas, where our citizens should be encouraged to pursue their avocations of fishing and hunting.

It is shown by the Reports of Government officials in the publications of the Tenth Census, that the destruction of fish life by seals, sea-lions, and other animals whose sole food is fish, is very largely in excess of the amount of fish taken by the whole of the fisheries of the United States, and to protect these ravenous animals is to cause the destruc-

tion of enormous quanties of nutritious food which should be utilized as a means of supporting the lives of the millions of people in these United States.

The Chamber of Commerce consider that the order of the Government by Act of Congress closing the Behring's Sea is an Act not for the benefit of the people to secure them a cheap article of food, but is for the sole benefit of a simple monopoly, to enable them to supply articles of luxury for the fashionable clothing of the rich.

We believe this Act of Congress to be a species of class legislation for the benefit of the wealthy few, and as such is opposed to the principles of sound public policy, and we protest against its further continuance.

* * * * *

James G. Swan.

In reply to a communication received by me from the Committee on Relations with Canada, under date of the 4th April, 1889, inviting information from me on the general subject of their investigations, and especially to the fisheries of the Pacific coast, I have the honour to submit the following: Ibid, p. 263.

On the 26th November, 1879, Professor Spencer F. Baird wrote me from Washington: "I should be very glad to have you undertake the work of collecting the fishery statistics for Puget Sound. Your Report may be as you choose to make it, particular attention being paid of course to the statistics of capture and yield. . . . Of course, I should wish you to take up the local seal fisheries as well as the others." Acting upon this invitation, I prepared and forwarded to Professor Baird a Report on the fur-seal fishery off the entrance to the Strait of Fuca and west coast of Washington Territory, which was sent from Neah Bay to him by mail on the 20th July, 1880; also a paper on the food fishes of Cape Flattery, Washington Territory, September 1880, and an exhaustive monograph of the halibut fishery of Cape Flattery and Puget Sound, under date of the 20th October, 1880.

On the 16th November, 1880, I received at Neah Bay a letter from Professor G. Brown Goode, dated Washington, 29th October, 1880, in which he says: "Your Report on fur seal fishery is at hand, and is of great importance to us. I am very much surprised at the extent of the business in your district." This Report was attacked in a most virulent manner by Mr. Henry W. Elliott, who, like myself, had been employed by the Smithsonian Institution to make investigations
72 on the habits of the fur-seals. Mr. Elliott, in his Report on the seals of the Pribylov Islands, says the pups of the fur-seal cannot swim, but will sink like a stone if thrown into the water. I showed that the pups of the fur-seal at Cape Flattery do swim as soon as born, and adduced proof to show that in this respect the seals of Cape Flattery differ from those of Behring's Sea. This statement of mine was in direct opposition to the statements of Mr. Elliott, and constantly reiterated by the Alaska Commercial Company for the past twenty years, that all the seals of the North Pacific go to Behring's Sea, and congregate principally on the Pribylov Islands. The remarks of Mr. Elliott, which can be found in "A Monograph of the Seal Islands of Alaska," a special Bulletin No. 176 of the United States Fish Commission, 1882, p. 166, were so personally offensive to me that I remonstrated with Professor Baird for allowing the objectionable paragraph to be published, and by his request I prepared another paper on the fur-seal, which was published in the Bulletin of the United States Fish Commission, 1883, vol. iii, pp. 201 to 207, in which I proved by various witnesses, Government officers, masters of sealing-vessels, white traders, and Indians that I was correct in my assertions contained in my Report of 1880 above referred to.

These Reports of mine, although published by the Government, seem for some reason to be systematically kept out of sight whenever information regarding seals and the fur-seal fishery is desired by Members of Congress.

The arguments and assertions of the Alaska Commercial Company that the fur-seals all go to the Pribylov Islands, and would be exterminated if that Company did not have the care and protection of them, would easily be disproved if both sides of the argument could be heard and the real facts made known.

I wish to make no charge against the Alaska Commercial Company. They are a commercial organization, and they follow out their true instincts to make all they can out of their very profitable lease. They are only repeating the policy of the Hudson's Bay Company, which for more than 100 years deceived the British Parliament by the same arguments now used by the Alaska Commercial Company, until when, in 1858, they applied to Parliament for a renewal of their Charter, those wise and far-seeing statesmen, Roebuck, Gladstone, Lord Bury, and Sir E. B. Lytton, exposed the shallow sophistry of the pretensions of that Company and a renewal of their Charter was denied them.

* * * * *

Relations with Canada, p. 269.

Although my Report on the fur-seals of Cape Flattery in 1880 was published by the Government in the Fisheries Exhibit of the Tenth Census, and sneeringly criticised by Elliott, as alluded to, I have been unable to procure a single copy, although I have made diligent search in all the volumes of the Tenth Census Report.

Ibid.

In like manner has Congress and the country been systematically kept in darkness regarding the fur-seal fisheries in Behring's Sea, for those who have had the information to impart have had an interest directly opposed to imparting it.

* * * * *

Ibid.

It is constantly asserted in Washington that the indiscriminate slaughter of seals will exterminate them, and cases are cited of the Islands of Massafuero, Lobos, and others on the Pacific coast, where the slaughter by crews of vessels from New London, Connecticut, and other New England ports has entirely exterminated the fur-seals at those islands and at Cape Horn. I assume that fur-seals can no more be exterminated than herring or codfish. They may be driven off from a rookery, but they are not exterminated; and, in proof of my assertion, I respectfully ask permission to file the sworn statements of Richard Dupuis relative to the fur-seals of Cape Horn, and of Edward Thomas Biggs relative to the fur-seals of the Falkland Islands, which I have respectively marked "Exhibits Nos. 2 and 3." The statements show that the fur-seals have not been exterminated at those places, but are taken in considerable numbers every season, and, although at one time were almost driven entirely away, are now returning to their former haunts.

APPENDIX (C).

Recapitulation (1889).

Vessels.	Coast Catch.	Behring's Sea.	Total.
British	12,463	15,497	27,960
American	2,318	3,403	5,721
German	240	1,461	1,701
Grand total	15,021	20,361	35,382

Total value, at 7 dollars per skin, 247,674 dollars.

Catch of Canadian Sealing Fleet, 1890.

Name.	Spring Catch.	Sand Point.	Behring's Sea.	Total.
or	104	302	592	998
(Pioneer)	235	716	984	1,935
	262	436	2,015	2,713
	182	1,018	473	1,673
in	368	878	918	2,164
	119	1,378	745	2,242
er		571	796	1,367
	156	511	230	897
	356	981	1,116	2,453
	165	797		962
	220	710	854	1,784
	380	365	945	1,670
	122		500	622
	148	578	445	1,171
ard	154	339	459	952
ac		1,200	752	1,952
	97	311	770	1,178
	90	703	630	1,423
	175	569	450	1,194
	220	349	1,137	1,706
	300	764	1,467	2,531
	254	817	774	1,845
lich	122	562	633	1,317
e		946	480	1,426
	82			82
	94			94
	115	951		1,066
Chief*	60			60
	70			70
	4,650	16,732	18,165	39,547

* Indian owners.

Foreign Vessels whose Catch was sold in Victoria.

Names.	Coast Catch.	Behring's Sea.	Total.
T. Dyer	74		74
ego		579	579
A. White		400	400
Dennis		1,500	1,500
e		564	564
	74	3,043	3,117
	220	431	651

GRAND TOTAL.

ch	4,944
t	16,732
Sea	21,639
l	43,315

	Skins.	Per skin.	Value.
ch	4,944	$10	$49,440
and Point catch	16,732	11	184,052
Sea catch	21,639	12	259,668
	43,315		493,160

	Skins.	Value.
h of fleet for 1890	43,315	$493,160
" 1889	35,310	247,170
nce in favour of 1890	8,005	245,890

Value of Canadian Sealing Vessels, with Outfit, also showing Tonnage, Crews carried, a value of Boats and Canoes separately.

Name.	Owners.	Tons.	Value of vessel, with outfit.	Number of boats.	Value of boats.	Number of canoes.	Value of canoes.	Nu ber me
C H. Tupper	Walker and Co	99	$13,000	7	$700	.....	.....	
Viva	Carne and Munsie	92	12,000	6	600	.....	.....	
Lily	W. Barns	69	8,500	1	100	8	$400	
Ariel	S. W. Buckinan	90	9,000	1	100	11	500	
Sea Lion	S. Collins	50	7,000	5	500	.....	.....	
Mary Taylor	Carne and Munsie	42	8,000	1	100	10	500	
Annie C. Moore	Hachett and Co	113	15,000	7	700	.....	.....	
Walter L. Rich	Cameron and Monro	79	7,000	6	600	.....	.....	
Adèle	Rats and Co	50	5,000	6	600	.....	.....	
E. B. Marvin	Marvin and Co	117	12,000	7	700	.....	.....	
Kate	C. Spring	58	4,000	5	500	11	500	
Pioneer (Pathfinder)	Carne and Munsie	66	10,000	5	500	.....	.....	
Favorite	C. Spring	64	8,000	.....	.....	13	500	
Ocean Belle	R. Hall and Co	83	10,000	7	700	.....	.....	
Theresa	Babington and Co	63	10,000	7	700	.....	.....	
Sapphire	Marvin and Co	124	14,000	1	100	18	900	
Triumph	Ditto	98	14,000	7	700	.....	.....	
Maggie Mac	Dod and Co	70	10,000	6	725	.....	.....	
Juanita	J. Kineman	49	6,000	1	100	9	450	
W. P. Sayward	Lang and Moss	59	8,000	1	100	8	400	
Katherine	J. A. Penney	81	5,500	1	100	10	500	
Beatrice	W. Grant	66	7,000	.....	.....	12	600	
Mary Ellen	M. Moss	73	7,250	7	700	.....	.....	
Penelope	Ditto	69	10,000	5	500	.....	.....	
Minnie	V. Jacobsen	46	8,000	1	100	8	400	
Aurora	J. Harold	41	8,000	1	100	10	500	
Wanderer	H. Paxton and Co	32	5,000	1	100	8	400	
Venture	D. Urquhardt	48	5,000	4	400	.....	.....	
Mountain Chief*	J. Hawassund	23	1,000	.....	.....	4	160	
Letitia*	P. Quachaund	28	1,000	.....	.....	5	200	
Totals		2,042	248,250	107	10,825	145	6,910	

* Indian schooners.

The following named Schooners carried part Indian Crews (1890).

Names.	Number Indian
Katherine	
Beatrice	
Minnie	
Aurora	
Kate	
Favorite	
Mary Taylor	
Ariel	
Sapphire	
Wanderer	
Juanita	
W. P. Sayward	
Lily	
Venture	
Adèle	
Total	

75 *List of Vessels and Catch of Victoria Sealing Fleet for 1889.*

Vessels.	Coast Catch.	Behring's Sea.	Total.
British—			
Pathfinder	942	48	990
Teresa	482	828	1,310
Viva	1,481	2,882	3,643
Annie C. Moore	802	1,318	2,120
Penelope	384	1,796	2,180
Sapphire	1,364	1,626	2,990
Onward	816	.....	816
Juanita	135	29	164
Mary Taylor	747	.....	747
Minnie	200	500	700
Wanderer	178	.....	178
Ariel	841	844	1,685
Lily	280	74	354
Black Diamond	629	55	684
Kate	624	800	1,424
Favorite	340	1,764	2,104
Mountain Chief	210	.....	210
Sierra	80	.....	80
W. P. Sayward	557	1,643	2,200
Winifred	22	.....	22
Beatrice	500	700	1,200
Maggie Mac	777	1,290	2,067
Triumph	72	.....	72
	12,463	15,497	27,960
American—			
Walter Rich	1,419	.....	1,419
San Diego	69	.....	69
J. Hamilton Lewis	242	.....	242
Venture	317	.....	317
Alice L. Alger	253	.....	253
Henry Dennis	18	700	718
Lottie	.....	625	625
Mollie Adams	.....	1,553	1,553
Bessie Butler	.....	525	525
	2,318	3,403	5,721
German	240	1,461	1,701

APPENDIX (D).

Mr. James G. Swan's Evidence.

Q. That is the point in my question. You say that it is not true that for every seal taken by fishermen several are killed?—A. I do not believe it; I have no evidence of it. Relations with Canada, p. 281.

Q. Do you not think a great many more are killed than they get the skins off?—A. No, I do not; I think they say so, and I know the Alaska Commercial Company will try to have you believe so, but all the evidence I have from the sealers is directly to the contrary.

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APPENDIX (E).

Mr. James G. Swan's Evidence.

Q. How are those seals taken at Cape Flattery?—A. Most of them are taken by the Indians, but of late years they have been shooting them a good deal, and, as a consequence, seals have been very shy, so that when they see a boat or canoe coming, they will get out of the way. They are very intelligent animals. Ibid., p. 285.

Q. When they are shot, are they always brought ashore?—A. Yes, Sir.

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APPENDIX (F).

Mr. James G. Swan's Evidence.

Ibid., p. 286. They are never taken in motion.

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76 APPENDIX (G).

Captain Joshua Brown's Evidence.

Relations with Canada, p. 346. Let the Government place proper people on those islands, and establish open and close months, then say that no sealers should go within 3 leagues of these islands, for the females that nurse their young never go farther away from the islands than that; there is an abundance of fish there for them to eat. The females go back to the islands two or three times every day to nurse their young. But let no fishermen go in there, and let there be close months, and let them have a fair and equal chance, and then I do not think they will ever exterminate those seals, because they reproduce themselves every year properly protected.

No. 23.

Foreign Office to Sir C. Lampson and Co.

FOREIGN OFFICE, *January 2, 1891.*

GENTLEMEN: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter the 30th ultimo on the subject of the Behring's Sea seal fishery and the trade in seal-skins with the United States.

I am, &c.

(Signed) P. CURRIE.

No. 24.

Colonial Office to Foreign Office.—(Received January 3.)

[Extract.]

DOWNING STREET, *January 2, 1891.*

I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a letter from the High Commissioner for Canada, and of a despatch from the Governor-General of Canada, on the subject of certain statements in Sir J. Pauncefote's despatch of the 24th July respecting the progress of the Behring's Sea negotiations.

[Inclosure 1 in No. 24.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, November 22, 1890.*

MY LORD: With reference to your Lordship's despatch of the 4th October last, inclosing copy of a despatch from Sir Julian Pauncefote to the Foreign Office on the subject of the Behring's Sea seal fisheries, I have the honour to forward, for your

Lordship's information, a copy of an approved Minute of the Privy Council, embodying the comments of the Minister of Marine and Fisheries upon the views expressed in Sir Julian's despatch.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 24.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 19th November, 1890.

The Committee of the Privy Council have had under consideration a Colonial Office despatch dated the 4th October, 1890, transmitting a despatch to the Foreign Office from the British Minister at Washington, Sir Julian Pauncefote, on the subject of the Behring's Sea fisheries question.

The Minister of Marine and Fisheries, to whom the despatch and inclosure were referred, states that he has read with interest and satisfaction Sir Julian Pauncefote's clear statement on the course of the Behring's Sea negotiations, and of the present situation of the controversy.

The Minister, while recommending that these despatches be filed for future reference, deems it advisable to call your Excellency's attention to the following remarks in Sir Julian Pauncefote's despatch, viz.:

"The result of the careful consideration which I gave to the evidence on both sides was to satisfy my own mind that while measures are called for to protect female seals with young from slaughter during well-known periods of their migration to and from the breeding islands, and also to prohibit the approach of sealing-vessels within a certain distance of those islands, the inquiry had failed to establish the contention of the United States Government that the absolute prohibition of pelagic sealing is necessary for the preservation of the fur-seal species."

The Minister further states that if Sir Julian Pauncefote means by this that it is necessary to restrict the hunting and killing of seals at all times when found outside of the islands or breeding resorts of the Behring's Sea, and the territorial waters surrounding them, or to prohibit the killing of seals found beyond the ordinary 3-mile limit in Behring's Sea, he (the Minister) desires to say that, having given considerable attention to the various arguments adduced in support of the contentions that measures are required to protect female seals, and that the approach of sealing-vessels within certain limits of the sealing islands should be prohibited, he has failed to observe any satisfactory evidence from which it could be established that regulations are necessary to protect the female seals with young within the Behring's Sea before they reach the breeding islands. While there appears to be no good reason for doubting that considerable destruction by sealers of different nations takes place during the months of January, February, March, and April, along the coasts of the United States and British Columbia, before the seals begin what may be termed the direct journey to the breeding rookeries, the best authorities known to the Minister of Marine and Fisheries go to show that female seals with young proceed with extraordinary rapidity on entering Behring's Sea direct to the breeding rookeries, and that during such time it is impossible for the hunters to secure them by shot or spear, neither can he accept the opinion that it is necessary to restrict pelagic sealing beyond the distance of the 3-mile limit.

The Minister, however, while holding strong views upon these points, does not pretend that a full and thorough investigation on the subject by those especially qualified to make such an examination would not support the impression apparently entertained by Sir Julian Pauncefote touching these phases of the question.

The Minister, while differing from Sir Julian Pauncefote on the foregoing points, cordially concurs in the concluding paragraph of Sir Julian's despatch, wherein he states:

"That if the United States Government persist in their endeavour to exclude British subjects from any participation in the fur-seal fishery in Behring's Sea, on the plea that such exclusion is necessary for the preservation of the fur-seal species, they assume a position which will not bear the test of an impartial inquiry."

The Committee, concurring in the above Report, recommend that a copy of this Minute be forwarded to the Right Honourable Her Majesty's Principal Secretary of State for the Colonies, for submission to Her Majesty's Government, and also that a copy be forwarded to the High Commissioner for Canada in London, for his information.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

No. 25.

Colonial Office to Foreign Office.—(Received January 8.)

DOWNING STREET, *January 8, 1891.*

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a further Minute of the Privy Council, submitting a letter from the Collector of Customs at British Columbia as to the catch of seals in Behring's Sea during the season of 1890.

I am, &c.

(Signed) R. H. MEADE.

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78 [Inclosure 1 in No. 25.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, December 12, 1890.*

MY LORD: With further reference to the subject of my despatch of the 28th ultimo in regard to the catch of seals in the Behring's Sea, I have the honour to inclose a copy of an approved Minute of the Privy Council, submitting a letter from the Collector of Customs at Victoria, British Columbia, containing supplementary information as to the season's catch of seals by British Columbian vessels.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 25.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 5th December, 1890.

On a report, dated the 1st December, 1890, from the Minister of Marine and Fisheries, submitting, with reference to the Minute of Council of the 15th November, 1890, respecting this season's catch of seals by vessels sailing from British Columbia, in supplement thereto a letter received from the Collector of Customs of the Port of Victoria, British Columbia, under date the 11th November, 1890, and which is annexed:

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy of this Minute to the Principal Secretary of State for the Colonies for submission to her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 25.]

Mr. Milne to Mr. Tupper.

VICTORIA, BRITISH COLUMBIA, *November 11, 1890.*

SIR: I have the honour, in further reference to your telegrams of the 15th and 16th ultimo, to say that since my letter of the 30th ultimo I have had interviews with those masters of schooners that remained the latest in the Behring's Sea, and who were most fortunate in getting a large catch. Amongst the masters, W. E. Baker, master of the schooner "Viva," whose catch was 2,015 in Behring's Sea, and also V. J. Jacobsen, master of the schooner "Minnie." These men being intelligent and careful mariners, on being questioned by me separately declared that they have never seen the seals more plentiful than just before they left Behring's Sea; Jacobsen saying that with his Indian crew, the few days before leaving the sealing-grounds, the Indians would bring 250 to 275 on board daily, but that the weather was very boisterous, foggy, and bad, interfering very much with their operations.

And I can now safely repeat what I have already said and written, that owners and masters do not entertain the slightest idea that the seals are at all scarcer, and all interested in the sealing industry are of the opinion that the howlings of the American press about the scarcity of seals caused by the "seal poachers" (as they term our vessels) is simply manufactured by the paid agent of the new Company, "The North American Trading Company," both here and in San Francisco, no doubt to gain some advantage for themselves. It is a fact well known to our sealers that during this year the only vessel that attempted to raid any islands was the American schooner "Geo. R. White," on Copper Island, and last year two American schooners raided, but without much success. That our schooners have been most careful I can safely assert, from my acquaintance and knowledge of the character of masters and owners, that no attempt would be made by any of them to commit any breach of law or international regulations.

Various reports have been telegraphed from here and San Francisco regarding the reported sailing of our schooners on a second cruize to Behring's Sea, as reported for the express purpose of raiding the seal islands of St. Paul and St. George. I inclose you a cutting from one of our newspapers that gives the story.

79 On the 20th September the Canadian schooner "Triumph" cleared from this port for a second cruize in the North Pacific and Behring's Sea. The same vessel was the first to return from Behring's Sea, owing to lack of success caused by boisterous weather, and the owners thought best, rather than have her laid up to January, the time for spring outfit, to make reasonable terms with the crew, and send her out for a second voyage, as it was considered that the seals might move to the westward and be later. At this time it was known that the seals were found to the north and eastward of the Islands of St. Paul and St. George.

On the sailing of this schooner, which was done in open day, without any attempt at concealment, telegrams were flying all over the continent that a fleet of British poaching schooners had cleared for Behring's Sea, to raid the Pribylov Seal Islands. A few days after a small German schooner, named the "Adèle," cleared from here to Yokohama, Japan. She was also reported as having gone to raid the Seal Islands.

This having been reported to San Francisco, I am creditably informed that H. Liebes (of H. Liebes and Co., the Resident of the North American Trading Company, the lessees of the Seal Islands), telegraphed to the United States Consul here, and who seems to have been controlled by others, and he made representations to his Government, which I understand he has since denied, but which, I think, there was no doubt, as Lieutenant Wooley, of the United States cutter "Wolcott" came over to obtain further information from the Consul, and he also called at the Custom-house, and when he left me he was, I think, satisfied that the whole matter had been misrepresented to his Government.

You will see by the inclosed newspaper cutting a copy of the order given to the revenue-cutter by the Assistant Secretary to the Treasury, O. S. Spaulding:

"Didn't catch them.

"The United States Government spends a lot of money foolishly.

"The steamer 'Bertha' lay at anchor in Port Townsend Bay all day Sunday. She was not attached to a British sealer either, as some thought she would be, when she came back to Puget Sound. She arrived early in the morning from Alaska, where she went three weeks ago in charge of Captain Russel Glover, of the revenue-cutter 'Wolcott,' and Lieutenant Benhem, of the Revenue Marine Service, stationed at San Francisco. Captain Glover was seen by a reporter, and he stated that he went only as far as Ounalaska on his cruize. There he found the cutter 'Bear' in charge of Captain Healy, and delivered to that officer all orders in his possession.

"It will be remembered that quite a ripple of excitement was caused some weeks ago by the report that the United States cutter 'Wolcott' had been ordered to Behring's Sea, and that the steamer 'Bertha' went in her place. The following orders were the ones sent on to Captain Glover:

"'WASHINGTON, D. C., *September 22, 1890.*

"'Captain Russel Glover, Revenue cutter "Oliver Wolcott," Port Townsend, Washington:

"'The schooners "Triumph," "Adèle," "Mary Ellen," "Pathfinder," and probably others, are reported to have left Victoria for the Seal Islands within the past three days, for the purpose of raiding them. You are hereby instructed to promptly proceed to cruize about the islands as long as the weather will permit, and spare no effort to protect the rookeries.

"'You are not instructed to warn raiding vessels off, but are instructed to discover them in the act. If they are taking seals on land at the islands, seize and bring them to Sitka. In brief, get them with evidence to convict.

"'Give a copy of these instructions to the "Rush," or "Bear," who are hereby instructed to be governed by them.

"'It may be well for you to obtain additional information concerning the raiding of vessels from United States Consul at Victoria, if you can do so without delaying your departure.

(Signed) "'O. S. SPAULDING,
"'*Assistant Secretary, Treasurer.*'

"The 'Bertha' took the place of the 'Wolcott' on account of the latter's unseaworthiness, and supplies and men were transferred to the 'Bertha,' the Government paying 200 dollars per day for her, and the steamer started north.

After meeting the 'Bear' at Ounalaska, the 'Bertha' was laid up for a few days for some slight repairs, and while transferring coal and supplies taken up for the Dading Company. She also picked up thirteen seamen belonging to the wrecked whaling-schooner 'Thomas Pope.' These will be taken to Seattle by the 'Bertha,' which is now lying in Port Townsend Harbour.

"The cutter 'Bear' proceeded at once to Behring's Sea, in charge of Captain Healy, to carry out the orders of Spaulding. From the last sentence of his official despatch it is evident the original information was sent out from Victoria.

"Lieutenant Willey admits having gone to Victoria to see what could be found out regarding the matter, and he was told the 'Triumph' and 'Adèle' had both cleared. The former was flying the British flag, and had cleared for Behring's Sea. The 'Adèle' was flying the German flag, and was on the way to Behring's Sea."

The only vessels of our sealing fleet that have cleared, up to this date, from this port are as follows:

Canadian schooner "Triumph," Cox, master, North Pacific and Behring's Sea.

German schooner "Adèle," Hansen, master, Yokohama, Japan.

Canadian schooner "Mary Taylor," Petit, master, South Pacific and Galapagos Islands.

The "Triumph" clearing on the 20th September, the "Adèle" on the 23rd September, and the "Mary Taylor" on the 11th October last.

The master and owners of the "Triumph" assured me that the vessel will likely circle out of Behring's Sea towards the Kurile Islands, and endeavour to follow the track of the seals, probably returning by way of Sandwich Islands. The German schooner "Adèle," I am satisfied, went towards the Kurile Islands, on the Asiatic side, and from thence, I believe, goes to Yokohama, Japan, where her owner resides. I have endeavoured to make clear to you the movements of the only vessels of our sealing fleet that have left our port (the rest all being laid up here until January), as a refutation of the many absurd rumours that have appeared in the American press as to the number of our vessels that had left on a second cruize, for the express purpose of raiding the Seal Islands.

In my letter of the 30th ultimo I inclosed a statement of the number of seals caught by each of our vessels, as well as the number sold here by foreign vessels. I would now most respectfully beg to point out to you the number of seals taken on our coast, which I have designated as the Coast and Sand Point catch, which are both coast catches. Before this year there were only two divisions made, that is, the early spring and the Behring's Sea catches, and consequently the seals taken from Vancouver Island northward were taken into Behring's Sea, and, on the vessel's return, were credited as being taken there. This was manifestly wrong, as you will observe by my statement that 16,732 seals were taken from Vancouver Island to Sand Point, on the Shumagin Islands, and only 18,165 altogether in the sea.

The statement sent you is correct, being carefully compiled by myself, and which will constitute the manner in which we will keep record of future operations, as by this year's statement it is clearly proven that sealing is not altogether confined to Behring's Sea, and that we have in the North Pacific a considerable portion of this industry.

The statement reads as follows:

Canadian vessels—	
Spring coast catch	4,650
Sand Point coast catch	16,732
	21,382
Behring's Sea	18,165
Difference in favour of coast catch	3,217

Referring to my letter of the 30th ultimo, I would beg to make some small correction as to the purchasers of sealskins this year at this port. I would now say: That nearly the whole coast and Sand Point catches (that is, 4,870 and 16,732 this year) were principally purchased by Morris Moss, the resident agent of the firm of H. Liebes *and Co.*, of San Francisco, California; the said H. Liebes being the President of the

North American Trading Company, who are the present lessees of the Seal Islands in Behring's Sea. The portion of the Behring's Sea catch purchased by the said Morris Moss for the said H. Liebes and Co., of San Francisco, as reported to me, were as follows:

81 *Canadian Vessels.*

Schooners—	Skins.
"Kate"	230
"Favourite"	1,116
"Adèle"	431
"Penelope"	445
"W. P. Sayward"	459
"Ariel"	1,137
"Sea Lion"	774

The other portion of the Behring's Sea catch which was sold here was purchased principally by M. J. Davis, agent of Joseph Uhlmann, New York, but a considerable portion of them was sent to London by the owners direct.

I would further beg to point out that the price of skins last year, 1889, was 7 dollars, while this year the prices have ruled high, the early spring catch at 10 dollars, the Sand Point catch 11 dollars, and the Behring's Sea 12 dollars, and in some small lots 13 dollars per skin, the agent of H. Liebes and Co. being active competitors, but those who could afford to send their skins to London did better.

Value of Vessels.

I would beg further to call your attention to the statement already sent you as to the value of vessels and outfits, crews, boats, &c., engaged in the sealing business. I have seen some adverse statements made as to the value of our sealing vessels in eastern papers, and, as usual, without any knowledge of the subject. I can assure you that our sealing-vessels are a credit to our port, the greater part of them fine schooners taken round from Nova Scotia, and others that have been built here. They are all well found in every particular: their outfits, boats, guns, &c., are excellent. They are all fleet and excellent sea vessels, remaining out at sea on the Pacific during the fierce gales that prevail during the spring of the year.

I have taken considerable care to ascertain the value of new vessels built here at present with the high price of labour, and I find that 100 dollars per registered ton is as low as a good vessel can be built for in this province. Some have doubted this, but experience has shown that in some cases it has cost 125 dollars, but at the present I am assured that 100 dollars per registered ton is a fair figure, while in Nova Scotia and New Brunswick the usual price is 50 dollars per registered ton, being double in this province to what it is east. So it is with the boats, which cost from 125 to 160 dollars. They are made and adapted to the sealing business, and vessels will carry from six to ten boats. The other portion of their outfit is likewise expensive, more especially regarding the particular kind of guns and costly rifles that experience has taught the hunter to be best adapted to ocean sealing. These guns cost 55 to 65 dollars each, and the rifles are also expensive, so that when these larger vessels are ready for sea their outfits will be between 3,000 and 4,000 dollars, and smaller ones I have been informed, on best authority, are not less than 2,500 dollars. It must be borne in mind that these schooners will carry a crew, including hunters, of twenty-three or twenty-five men.

Five schooners will be added to our fleet from Nova Scotia this year. They have already sailed viâ Cape Horn, and also one schooner purchased in Yokohama, Japan. They are all schooners from 70 to 110 tons register. I understand that each of the schooners that has left Halifax brings a full crew of hunters. I have also seen it stated that a number of American schooners were going to sail under our flag in sealing. This is absolutely not true. There are no American schooners changing their flag at present, and none contemplated. As a fact, the American schooners have not been as successful as our own Canadian vessels, and fewer of them have visited our port last year than formerly.

I have the honour to inclose you some further information as to the Owners and Masters Association. I send the newspaper cutting, which, I believe, is correct, but I am promised a full copy of the proceedings, which, if I receive in time, I will inclose herewith.

The terms are:

Any hunter procuring		400 seals and upward	$2.50	per skin.
"	"	300 to 400	2.00	"
"	"	200 to 300	1.50	"
"	"	less than 200	1.00	"

82 The owners have bound themselves, in the event of the hunters not accepting this scale, to import new hunters from the east, and no schooner to engage, in any case, more than three of the old hunters.

"Interesting to Sealers.

'On Tuesday a meeting was held by the owners and masters interested in the sealing industry of this port, the gathering having been called to deal with several matters of vital interest to all parties concerned. Captain Warren was asked to take the Chair, Mr. Richard Hall, of Hall and Goepel, acting as Secretary. The outlook for the next season was discussed at considerable length, as was the result of the past one. It was the opinion of all that the price of skins this year was considerably above the average, and that it was highly probable that a drop in prices would take place next year. The reason for the increased prices for the past season's catch was held to be due to the fact that the bad weather had been against a big catch, and that the shortage naturally made a livelier demand.

"The question of pay for hunters and boatmen then came up, and the adoption of a scale per sealskin was discussed. It was admitted by the owners, many of whom are practical men, that the business of seal-hunting was a dangerous and arduous one, and one that should in all fairness be paid for in a liberal way, but, at the same time, the great risks in the sealing business, together with the uncertainty of the markets, made the payment of an excessive rate entirely out of the question. It was also shown that a good hunter, one who was able to get many seals, was a cheaper man at better pay than was a poor one. An indifferent man occupied a boat and kept two boatmen at work, while the result of his season's work might not be sufficient to pay interest on the capital invested. In view of these facts, the following scale of wages was unanimously adopted:

Catch.	Pay per Skin.
Up to 199	$1.00
" 299	1.50
" 399	2.00
400 or over	2.50
Grey pups, each	1.00

"It will thus be seen that the hunter who captures less than 200 only gets 1 dollar each, while the good shot and experienced man who gets 400 or over has 2 dol. 50 c. each. This scale has been agreed to by all the owners.

"Boat pullers are to be paid 30 dollars per month, or 15 dollars per month and 25 cents per skin taken. This will be an incentive to the boatmen to work with the hunter for a good catch.

"Another matter of importance came up, and that was the employment of old hands. It was shown that there were not experienced hunters enough to man the fleet, and it has been agreed upon by the owners to limit the number of old hands in each vessel to three, the others to be made up of new men composed of porpoise hunters from the east. This plan will give each of the owners an equal chance for a good crew. One exception only was made, and that in the case of a schooner which is owned almost exclusively by the hunters. In this case the rule as to limit in the number will not be enforced. The scale of wages will, however, be the same."

Every year our sealers are becoming better acquainted with seal life, both in the North Pacific Ocean and in Behring's Sea, and I have endeavoured to find out from the most intelligent many matters on which there have been conflicting opinions. One of those, as to the number of females caught; and even persons in this province have been ready to give extravagant opinions on this subject, as to the excessive numbers of females taken. Now it is well known to our best and most intelligent sealers that a considerable proportion of cow or female seals taken are barren, quite barren, that is, they have not borne young for one or more seasons. This the hunters well know from the absence of any appearance of lacteal fluid in the animal: it is now well known that the young seal will take to the water as soon as born, contrary to the theory advanced by Elliot. On this and many other like matters I endeavour to elicit all information that I think might be of service to the Government at any future time.

83 I am very happy to say that the owners and masters of our sealing fleet are always ready and anxious to confer with me at any time in regard to any matter appertaining to the sealing industry, and appear to be satisfied that the Government are doing everything possible to bring about an honourable settlement of this important question.

I have, &c.

(Signed) A. R. MILNE, *Collector of Customs.*

[Inclosure 4 in No. 25.]

Report of Proceedings.

We, the undersigned, members of the Victoria Ship-owners and Masters Sealing Association, hereby agree and pledge ourselves to strictly adhere to the tariff of prices agreed on at our meetings, and which said tariff is hereinafter specified, and we also bind ourselves on our word of honour not to violate this agreement by offering any bonus or inducements of any kind whatever, outside the letter of this Agreement, and also we bind ourselves to assist each other in every possible manner to carry out this Agreement and preserve the integrity of our Association. The following is the tariff of wages and lay to be allowed hunters, boat-pullers, and steerers for the season 1891:

Hunters—

On catch of 199 skins or less	$1.00	per skin.
" 200–299	1.50	"
" 300–399	2.00	"
" 400 and upwards	2.50	"

Excepting in every instance grey pup-skins, for which will be paid 1 dollar each. The catch referring to the number of skins secured by each hunter in his respective boat, and delivered to the captain or officer in charge of his schooner. Any skin showing grey marking under the fur about the shoulder is to be considered a grey pup-skin.

Boat-pullers and Steerers.

Wages only, not to exceed 30 dollars per month. Wages and lay, 15 dollars per month, and 25 cents per skin. Lay only, 50 cents per skin (grey pups excepted) all caught in their respective boats, and delivered to the captain or officer in charge of the schooner. On each grey pup for lay only the price shall be 25 cents.

Second Officers.

Wages not to exceed 35 dollars per month. We also bind ourselves not to take more than three experienced hunters in the sealing business on each vessel represented by us, said hunters to be engaged at the scale or lay adopted by this Association, as hereinbefore particularly described; and we also agree that all hunters required in excess of the three hunters above mentioned for each vessel shall be new men at the business of seal-hunting and shall be engaged at the same scale or lay hereinbefore mentioned, and this clause shall apply to all vessels owned or controlled by the members of this Association, whether clearing from the port of Victoria, or other ports in Canada or the United States, or any port where any vessel owned or controlled by any member of this Association may be fitting out for sealing on this coast. We also bind ourselves that the scale for Indian hunters shall be as follows:

For the spring engagement, for each seal-skin (grey pups excepted, for which will be paid the sum of 1 dollar [*sic*]), all to be delivered to the captain or officer in charge of the schooner; and we further bind ourselves to offer no further bonus or inducement whatsoever, directly or indirectly, in excess of the above prices for the spring engagement.

On the Northern and Behring's Sea catch we agree to pay not more than 3 dollars for each seal-skin (grey pups included) delivered to the captain or officer in charge of the schooner, and, if necessary, also not more than 10 dollars for each canoe procured, and also a bonus of not more than 10 dollars to the Chief or Headman for procuring such canoes; and we bind ourselves that the above shall be the only moneys paid out in excess of the cost of the skins, viz., 3 dollars for the Northern and Behring's Sea engagement.

And, lastly, we agree not to advance or in any way exceed the scale or lay
84 of any hunters, should those in Victoria decline to accept the hereinbefore-mentioned lay, but to procure hunters elsewhere.

In the faithful performance of the within Agreement, we hereby sign our names, and the names of the schooners represented by us.

No. 26.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 16.)

WASHINGTON, *January 6, 1891.*

MY LORD: I have the honour to inclose herewith copies of the President's Message to the House of Representatives, transmitting a letter from the Secretary of State, which is accompanied by the correspondence which has taken place since the 23rd July, 1890, on the Behring's Sea question.

This correspondence consists of your Lordship's despatch to myself of the 2nd August last, and of Mr. Blaine's note in reply of the 17th December, copy of which I had the honour to transmit to your Lordship in my despatch of the 19th ultimo.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 26.]

PRESIDENT'S MESSAGE.

Seal Fisheries of Behring's Sea.

To the House of Representatives:

In further response to the Resolution of the House of Representatives, requesting me, if in my judgment not incompatible with the public interest, to furnish to the House the correspondence since the 4th March, 1889, between the Government of the United States and the Government of Great Britain, touching the subjects in dispute in the Behring's Sea, I transmit herewith a letter from the Secretary of State, which is accompanied by the correspondence which has taken place since my Message of the 23rd July, 1890.

(Signed) BENJAMIN HARRISON.

EXECUTIVE MANSION, *January 5, 1891.*

DEPARTMENT OF STATE, *Washington, January 5, 1891.*

To the President:

In response to your direction, I submit herewith the official correspondence between the Government of the United States and the Government of Great Britain, touching the seal fisheries of the Behring's Sea, since the 19th July last.

I am, &c.

(Signed) JAMES G. BLAINE.

No. 27.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 20.)

[Telegraphic.]

WASHINGTON, *January 20, 1891.*

Behring's Sea.

With reference to my telegram of the 17th instant, I have the honour to inform your Lordship that I saw Mr. Blaine yesterday, and he showed me a statement which had appeared in the "Times" of the 5th January respecting the naval preparations of the United States in the Pacific.

This statement was, he said, based on a mischievous telegram from the Philadelphia correspondent of the "Times," and explained the temporary excitement in London. The telegram was absolutely and entirely *false*.

No. 28.

Colonial Office to Foreign Office.—(Received January 30.)

[Extract.]

DOWNING STREET, *January 29, 1891.*

With reference to a Report, received through the Admiralty,* from
Commander-in-chief on the Pacific Station on the subject of the
l fishing in the Behring's Sea, I am directed by Lord Knutsford to
nsmit to you, to be laid before the Marquis of Salisbury, an extract
a despatch from the Governor-General of Canada, with a Minute of
Privy Council, submitting a Report by the Minister of Marine and
sheries on the Commander-in-chief's letter.

[Inclosure 1 in No. 28.—Extract.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, January , 1891.*

I have the honour to forward to your Lordship a copy of an approved Minute of
he Privy Council, submitting a Report by the Minister of Marine and Fisheries on
he letter from the Commander-in-chief on the Pacific Station as to the seal fishery
n Behring's Sea, copy of which was inclosed in your Lordship's despatch of the
th November last.

[Inclosure 2 in No. 28.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 31st December, 1890.

The Committee of the Privy Council have had under consideration a despatch,
ted the 5th November, 1890, from Lord Knutsford, transmitting a copy of a com-
unication, received through the Foreign Office from the Admiralty, inclosing a
port from the Commander-in-chief on the Pacific Station concerning the seal
hery in Behring's Sea.
The Minister of Marine and Fisheries, to whom the despatch and inclosures were
erred, submits the annexed Report thereupon, in which the Committee concur.
The Committee advise that your Excellency be moved to forward a copy of this
port to the Right Honourable the Secretary of State, for the information of Her
jesty's Government.
All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

[Inclosure 3 in No. 28.—Extract.]

Mr. Tupper to Lord Stanley of Preston.

DEPARTMENT OF FISHERIES, CANADA,
Ottawa, November 27, 1890.

he Undersigned has the honour to acknowledge your Excellency's reference, cov-
ng a letter from Her Majesty's Principal Secretary of State for the Colonies,
nsmitting a copy of a communication received by Lord Knutsford through the
reign Office from the Admiralty, inclosing a Report from the Commander-in-chief
the Pacific Station concerning the seal fishery in Behring's Sea.
he Undersigned has carefully perused the letter of the Commander-in-chief of
Pacific Station, in which he reports to the Admiralty the return of the sealing
oners from Behring's Sea, and certain information which he has gathered from

* See No. 12.

the captains of the schooners respecting the nature and extent of this season's catch of seals.

The Undersigned would observe that after full inquiry through the Collector of Customs at the Port of Victoria, British Columbia, he submitted a Report upon the subject of this season's catch, which your Excellency approved, on the 17th and 19th November, 1890, and that the information thus conveyed to Her Majesty's Government is supplemented by a further Report from the Undersigned based on additional particulars from the Collector of Customs at Victoria, under date the 11th November.

86 Paragraph 6 of the Report of the Admiralty from the Commander-in-chief on the Pacific Station, to which special attention is directed by the Admiralty, is as follows:

"They (the captains of the sealing vessels) also mentioned that two-thirds of their catch consisted of female seals, but that after the 1st July very few indeed were captured 'in pup,' and that when sealing outside the Behring's Sea round the coast on the way up (where this year the heaviest catches were made) they acknowledged that seals 'in pup' were frequently captured."

The Undersigned would remark upon this, that seal-hunters are in the habit of classifying seals as males and females when assorting their catches for the markets, regardless of the sexes of the seals; in other words, all seals of a standard size and over are classed as males, those under the standard size being classed as females.

It does not appear from Rear-Admiral Hotham's Report, that in his investigations any special examination was made as to the sexes, and the Undersigned would remark, in passing, that very careful investigation is necessary in order to distinguish the male from the female seals.

Reading paragraph 6, however, as applicable to the experience of the hunters previous to their entering Behring's Sea, the views conveyed by Rear-Admiral Hotham to the Admiralty are not inconsistent with information received from time to time by the Undersigned, to the effect that a considerable number of female seals and seals "in pup" have been taken outside of the Behring's Sea, in the great waters of the Pacific Ocean, and along the coasts of British Columbia, California, and Washington territory. The Undersigned upon this phase of the sealing industry, moreover, would remark that neither the United States nor any other nation has yet expressed willingness to consider a close season, covering the great waters of the Pacific Ocean outside of Behring's Sea, so as to prevent the destruction of seal life.

The Undersigned is of the opinion that, upon investigation by experts, it might possibly be found necessary, for the preservation of the fur-seal species, to establish Regulations in order to prevent this slaughter upon the coasts above mentioned. There is evidence that the slaughter of the females when "in pup" occurs while the seals are travelling slowly up the coasts on their way to the rookeries in Behring's Sea, when resting, playing, or feeding, before they have begun the more immediate and direct journey to the breeding islands. There is, however, it is submitted, no satisfactory evidence to establish that when the seals have once passed through the Aleutian Islands on their course to the breeding rookeries, that it is possible for hunters to shoot or Indians to spear them; on the contrary, there is reliable authority for stating that the journey through the Alentian Islands and to the breeding grounds is direct and swift. It is known, moreover, that the pelagic sealers in Behring's Sea obtain their catch chiefly from the "bachelor" seals and the "barren cow" seals, found at different points off the rookeries, at periods when the breeding seals are mostly confined to the islands, and the waters immediately surrounding the islands.

No. 29.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received February 10.*)

[Telegraphic.]

WASHINGTON, *February 9, 1891.*

In an interview which I had to-day with Mr. Blaine he told me that he had been intending to write to me to ask whether he was to consider the diplomatic correspondence on the Behring's Sea question suspended or closed in view of the legal proceedings in the "Sayward" case now before the Supreme Court.

I said that I had no instructions on the subject, but that in view of the reported reply of the Parliamentary Under-Secretary to a question in the House of Commons that the legal proceeding in question was in the nature of a private suit, and did not interfere with the pending negotiations, I did not think that your Lordship considered the diplomatic correspondence closed or even suspended. I added, however, that I would inform your Lordship of the inquiry he had made.

No. 30.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *February 10, 1891.*

With reference to your telegram of yesterday, I have to inform you that my reply to Mr. Blaine's note of the 17th December, on the
87 subject of Behring's Sea, will be sent very shortly. I have delayed it with the object of obtaining information on a few points.

There is not, in my view, any connection between the legal proceedings in the case of the "W. P. Sayward" and the diplomatic correspondence with regard to Behring's Sea.

No. 31.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *February 21, 1891.*

SIR: The despatch of Mr. Blaine, under date of the 17th December, has been carefully considered by Her Majesty's Government. The effect of the discussion which has been carried on between the two Governments has been materially to narrow the area of controversy. It is now quite clear that the advisers of the President do not claim Behring's Sea as a *mare clausum*, and indeed that they repudiate that contention in express terms. Nor do they rely, as a justification for the seizure of British ships in the open sea, upon the contention that the interests of the seal fisheries give to the United States Government any right for that purpose which, according to international law, it would not otherwise possess. Whatever importance they attach to the preservation of the fur seal species,—and they justly look on it as an object deserving the most serious solicitude,—they do not conceive that it confers upon any Maritime Power rights over the open ocean which that Power could not assert on other grounds.

The claim of the United States to prevent the exercise of the seal fishery by other nations in Behring's Sea rests now exclusively upon the interest which by purchase they possess in a Ukase issued by the Emperor Alexander I. in the year 1821, which prohibits foreign vessels from approaching within 100 Italian miles of the coasts and islands then belonging to Russia in Behring's Sea. It is not, as I understand, contended that the Russian Government, at the time of the issue of this Ukase, possessed any inherent right to enforce such a prohibition,

or acquired by the act of issuing it any claims over the open sea beyond the territorial limit of 3 miles, which they would not otherwise have possessed. But it is said that this prohibition, worthless in itself, acquired validity and force against the British Government because that Government can be shown to have accepted its provisions. The Ukase was a mere usurpation; but it is said that it was converted into a valid international law, as against the British Government, by the admission of that Government itself.

I am not concerned to dispute the contention that an invalid claim may, as against another Government, acquire a validity which in its inception it did not possess, if it is formally or effectively accepted by that Government. But the vital question for decision is whether any other Government, and especially whether the Government of Great Britain, has ever accepted the claim put forward in this Ukase. Our contention is, that not only can it not be shown that the Government of Great Britain, at any time since 1821, has admitted the soundness of the pretension put forward by that Ukase, but that it can be shown that it has categorically denied it on more than one occasion. On the 18th January, 1822, four months after the issue of the Ukase, Lord Londonderry, then British Foreign Secretary, wrote in the following terms to Count Lieven, the Russian Ambassador in London:

Upon the subject of this Ukase generally, and especially upon the two main principles of claim laid down therein, viz., an exclusive sovereignty alleged to belong to Russia over the territories therein described, as also the exclusive right of navigating and trading within the maritime limits therein set forth, His Britannic Majesty must be understood as hereby reserving all his rights, not being prepared to admit that the intercourse which is allowed on the face of this instrument to have hitherto subsisted on those coasts and in those seas can be deemed to be illicit; or that the ships of friendly Powers, even supposing an unqualified sovereignty was proved to appertain to the Imperial Crown, in these vast and very imperfectly occupied territories, could, by the acknowledged law of nations, be excluded from navigating within the distance of 100 Italian miles, as therein laid down, from the coast.

On the 17th October in the same year the Duke of Wellington, Ambassador at Verona, addressed to Count Nesselrode a note containing the following words:

Objecting, as we do, to this claim of exclusive sovereignty on the part of Russia, I might save myself the trouble of discussing the particular mode of its exer-
88 cise as set forth in this Ukase. But we object to the sovereignty proposed to be exercised under this Ukase not less than we do to the claim of it. *We cannot admit the right of any Power possessing the sovereignty of a country to exclude the vessels of others from the seas on its coasts to the distance of 100 Italian miles.*

Again, on the 28th November, 1822, the Duke of Wellington addressed a note to Count Lieven containing the following words:

The second ground on which we object to the Ukase is that His Imperial Majesty thereby excludes from a certain considerable extent of the open sea vessels of other nations. We contend that the assumption of this power is contrary to the law of nations; and we cannot found a negotiation upon a paper in which it is again broadly asserted. We contend that no Power whatever can exclude another from the use of the open sea; a Power can exclude itself from the navigation of a certain coast, sea, &c., by its own act or engagement, but it can not by right be excluded by another. This we consider as the law of nations; and we cannot negotiate upon a paper in which a right is asserted inconsistent with this principle.

It is evident, therefore, that so far as diplomatic representation went, the King's Government of that date took every step which it was in their power to take, in order to make it clear to the Russian Government that Great Britain did not accept the claim to exclude her subjects for 100 miles distance from the coast, which had been put forward in the Ukase of 1821.

Mr. Blaine does not deal with these protests, which appear to Her Majesty's Government to be in themselves amply sufficient to decide the question, whether Great Britain did or did not acquiesce in the Russian claim put forward by the Ukase. He confines himself mainly, in the despatch under consideration, to the consideration of the Treaties which were subsequently made between Great Britain and Russia and America and Russia in the year 1825; and especially of that between Russia and Great Britain. This Treaty, of which the text is printed at the close of Mr. Blaine's despatch, does not contain a word to signify the acquiescence of Great Britain in the claim recently put forward by Russia to control the waters of the sea for 100 miles from her coast. There is no stipulation upon which this interpretation can be imposed by any process of construction whatsoever. But there is a provision having in our judgment a totally opposite tendency, which indeed was intended to negative the extravagant claim that had recently been made on the part of Russia; and it is upon this provision that the main part of Mr. Blaine's argument, as I understand it, is founded. The stipulation to which I refer is contained in the Ist Article, and runs as follows:

Article I. It is agreed that the respective subjects of the High Contracting Parties shall not be troubled or molested in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following Articles.

I understand Mr. Blaine's argument to be that if Great Britain had intended to protest against the claim of Russia to exclude ships for 100 miles from her coasts in Behring's Sea, she would have taken this opportunity of doing so; but that in confining herself to stipulations in favour of full liberty of navigation and fishing in any part of the ocean, commonly called the Pacific Ocean, she, by implication, renounced any claim that could arise out of the same set of circumstances in regard to any sea that was not part of the Pacific Ocean. And then Mr. Blaine goes on to contend that the phrase "Pacific Ocean" did not and does not include Behring's Sea.

Even if this latter contention were correct, I should earnestly demur to the conclusion that our inherent rights to free passage and free fishing over a vast extent of ocean could be effectively renounced by mere reticence or omission. The right is one of which we could not be deprived unless we consented to abandon it, and that consent could not be sufficiently inferred from our negotiators having omitted to mention the subject upon one particular occasion.

But I am not prepared to admit the justice of Mr. Blaine's contention that the words "Pacific Ocean" did not include Behring's Sea. I believe that in common parlance, then and now, Behring's Sea was and is part of the Pacific Ocean; and that the latter words were used in order to give the fullest and widest scope possible to the claim which the British negotiators were solemnly recording of a right freely to navigate and fish in every part of it, and throughout its entire
89 extent. In proof of the argument that the words "Pacific Ocean" do not include Behring's Sea, Mr. Blaine adduces a long list of Maps in which a designation distinct from that of "Pacific Ocean" is given to Behring's Sea; either "Behring's Sea," or "Sea of Kamschatka" or the "Sea of Anadir." The argument will hardly have any force unless it is applicable with equal truth to all the other oceans of the world. But no one will dispute that the Bay of Biscay forms part of the Atlantic Ocean, or that the Gulf of Lyons forms part of the

Mediterranean Sea; and yet in most Maps it will be found that to those portions of the larger sea a separate designation has been given. The question whether by the words "Pacific Ocean" the negotiators meant to include or to exclude Behring's Sea depends upon which locution was esteemed to be the correct usage at the time. The date is not a distant one, and there is no ground for suggesting that the usage has changed since the Anglo-Russian Treaty of 1825 was signed. The determination of this point will be most satisfactorily ascertained by consulting the ordinary books of reference. I append to this despatch a list of some thirty works of this class, of various dates from 1795 downwards, and printed in various countries, which combine to show that, in customary parlance, the words "Pacific Ocean" do include Behring's Sea.

If, then, in ordinary language, the Pacific Ocean is used as a phrase including the whole sea from Behring's Straits to the Antarctic Circle, it follows that the Ist Article of the Treaty of 1825 did secure to Great Britain in the fullest manner the freedom of navigation and fishing in Behring's Sea. In that case no inference, however indirect or circuitous, can be drawn from any omission in the language of that instrument to show that Great Britain acquiesced in the usurpation which the Ukase of 1821 had attempted. The other documents which I have quoted sufficiently establish that she not only did not acquiesce in it, but repudiated it more than once in plain and unequivocal terms; and as the claim made by the Ukase has no strength or validity except what it might derive from the assent of any Power whom it might affect, it results that Russia has never acquired by the Ukase any right to curtail the natural liberty of Her Majesty's subjects to navigate or fish in these seas anywhere outside territorial waters. And what Russia did not herself possess she was not able to transmit to the United States.

Her Majesty's Government have, in view of these considerations, no doubt whatever that British subjects enjoy the same rights in Behring's Sea which belong to them in every other portion of the open ocean; but it is, nevertheless, a matter of sincere satisfaction that the President is willing to refer to arbitration what he conceives to be the matters which have been under discussion between the two Governments for the last four years. In regard to the questions as they are proposed by Mr. Blaine, I should say that as to the first and second, no objection will be offered by Her Majesty's Government. They are as follows:

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?
2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

The third question is expressed in the following terms: "Was the body of water now known as the Behring's Sea included in the phrase 'Pacific Ocean,' as used in the Treaty of 1825 between Great Britain and Russia; and what rights (if any) in the Behring's Sea were given or conceded to Great Britain by the said Treaty?"

Her Majesty's Government would have no objection to referring to arbitration the first part of that question, if it should be thought desirable to do so; but they would give that consent with the reservation that they do not admit that the decision of it can conclude the larger questions which the Arbitrator would have to determine. To the latter part of No. 3 it would be their duty to take exception:

What rights, if any, in the Behring's Sea were given or conceded to Great Britain by the said Treaty?

Great Britain has never suggested that any rights were given to her or conceded to her by the said Treaty. All that was done was to recognize her natural right of free navigation and fishing in that as in all other parts of the Pacific Ocean. Russia did not give those rights to Great Britain, because they were never hers to give away.

4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Behring's Sea east of the water boundary in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpared to the United States under that Treaty?

This fourth question is hardly worth referring to an Arbitrator, as Great Britain would be prepared to accept it without dispute.

The fifth proposed question runs as follows:

5. What are now the rights of the United States as to the fur-seal fisheries in the waters of the Behring's Sea outside of the ordinary territorial limits, whether such rights grow out of the cession by Russia of any special rights or jurisdiction held by her in such fisheries or in the waters of Behring's Sea, or out of the ownership of the breeding islands, and the habits of the seals in resorting thither and rearing their young thereon, and going out from the islands for food, or out of any other fact or incident connected with the relation of those seal fisheries to the territorial possessions of the United States?

The first clause, "What are now the rights of the United States as to the fur-seal fisheries in the waters of the Behring's Sea outside of the ordinary territorial limits?" is a question which would be very properly referred to the decision of an Arbitrator. But the subsequent clause, which assumes that such rights could have grown out of the ownership of the breeding islands, and the habits of the seals in resorting thereto, involves an assumption as to the prescriptions of international law at the present time to which Her Majesty's Government are not prepared to accede. The sixth question, which deals with the issues that will arise in case the controversy should be decided in favour of Great Britain, would perhaps more fitly form the substance of a separate reference. Her Majesty's Government have no objection to refer the general question of a close time to arbitration, or to ascertain by that means how far the enactment of such a provision is necessary for the preservation of the seal species; but any such reference ought not to contain words appearing to attribute special and abnormal rights in the matter to the United States.

There is one omission in these questions which I have no doubt the Government of the President will be very glad to repair; and that is the reference to the Arbitrator of the question, what damages are due to the persons who have been injured, in case it shall be determined by him that the action of the United States in seizing British vessels has been without warrant in international law. Subject to these reservations, Her Majesty's Government will have great satisfaction in joining with the Government of the United States in seeking by means of arbitration an adjustment of the international questions which have so long formed a matter of controversy between the two Governments.

I have to request that you will read this despatch to Mr. Blaine, and leave a copy of it with him should he desire it.

I am, &c.

(Signed) SALISBURY.

APPENDIX.

Malham, John. Kamschatka Sea, is a large branch of the Oriental or North Pacific Ocean.

"Naval Gazetteer," 1795. Beering's Straits, which is the passage from the North Pacific Ocean to the Arctic Sea.

Brookes, R. Beering's Island. An island in the Pacific Ocean. [Behring's Island is in Behring's Sea.]

"General Gazetteer." 1802. Kamschatka. Bounded east and south by Pacific.

Montefiore. "Commercial Dictionary." 1803. Kamtschatka. Bounded on the north by the country of the Koriacs, on the east and south by the North Pacific Ocean, and on the west by the Sea of Okotsk.

"Geographical Dictionary." London, 1804. Beering's Island. In the North Pacific Ocean.

Cruttwell, C. "New Universal Gazetteer." 1808. Beering's Island. An island in the North Pacific Ocean.
Kamtchatka. River, which runs into the North Pacific Ocean.
Kamtchatka. Peninsula, bounded on the east and south by the North Pacific Ocean.

Mangnall, R. "Compendium of Geography." 1815. Islands in the Eastern or Great Pacific Ocean: Bhering's Isle.

Galletti, J. G. A. "Geographisches Wörterbuch." Pesth, 1822. Stilles Meer. Vom 5 nördl. Br. an bis zur Beringsstrasse aufwarts stets heftige Stürme. [Behring's Strait is at the northern extremity of Behring's Sea.]

"Edinburgh Gazetteer," Edition 1822, vol. i, p. 432. 91 Behring's Island. An island in the North Pacific Ocean.

"General Gazetteer." London, 1823. Beering's Island. In the North Pacific Ocean.

"New London Universal Gazetteer." 1826. Beering's Island. In the Pacific.

"Dictionnaire Géographique Universel," 1828. Mer Pacifique. Il s'étend du nord au sud depuis le Cercle Polaire Arctique, c'est-à-dire, depuis le Détroit de Behring, qui le fait communiquer à l'Océan Glacial Austral.

Seitz, Dr. J. C. "Geographisches - Statistisches Handwörterbuch." Halberstadt, 1829. Stilles Meer. Vom 30 südlicher Breite bis zum 5 nördlicher Breite verdient es durch seine Heiterkeit und Stille den namen des Stillen Meers; von da an bis zur Beringsstrasse ist es heftigen Stürmen unterworfen.

"Penny National Library: Geography and Gazetteer." 1830. Beering's Island. In the North Pacific Ocean.

Arrowsmith. Bhering's Strait connects the Frozen Ocean with the Pacific.

"Grammar of Modern Geography." 1832. The Anadir flows into the Pacific Ocean.

The principal gulfs of Asiatic Russia are: the Gulf of Anadir, near Bhering's Strait; the Sea of Penjina, and the Gulf of Okhotsk, between Kamtchatka and the mainland of Russia—all three in the Pacific Ocean.

"Précis de la Géographie Universelle," par Malte-Brun, vol. ii, p. 181, Édition 1835. L'Océan Pacifique Boréal s'étend depuis le Détroit de Behring jusqu'au tropique de Cancer.

Ditto, vol. viii, p. 4. Le Détroit de Behring. A commencer par ce détroit, le Grand Océan (ou Océan Pacifique) forme la limite orientale de l'Asie.

Langlois. "Dictionnaire de Géographie." 1838. Behring (Détroit célèbre). Il joint l'Océan Glacial Arctique au Grand Océan.

"Penny Cyclopædia," 1840. The Pacific Ocean. Its boundary-line is pretty well determined by the adjacent continents, which approach one another towards the north, and at Behring's Strait which separates them, are only about 36 miles apart. This strait may be considered as closing the Pacific on the north.

"Dictionnaire Universel d'Histoire et de Géographie," par M. N. Bouillet. Paris, 1842. Behring (Détroit de) à l'extrémité nord-est de l'Asie, sépare ce Continent de l'Amérique et l'Océan Glacial Arctique de l'Océan Pacifique.
Behring (Mer de), partie de l'Océan Pacifique.

Behring (Détroit de). Canal de l'océan . . . unissant les eaux de l'Océan Pacifique à celles de l'Océan Arctique.
"Dictionnaire Géographique et Statistique," par Adrien Guibert. Paris, 1850.

Pacific Ocean. Between longitude 70° west and 110° east, that is for a space of over 180°—it covers the greater part of the earth's surface, from Behring's Straits to the Polar Circle, that separates it from the Antarctic Ocean.
"The New American Cyclopædia," edited by George Ripley and Charles A. Dana. New York, 1851.

Behring (Détroit de). Canal du Grand Océan unissant les eaux de l'Océan Pacifique à celles de l'Océan Glacial Arctique.
"Grand Dictionnaire de Géographie Universelle," par M. Bescherelle Aîné. 4 vols. 1855.

Behring's Sea, sometimes called the Sea of Kamtchatka, is that portion of the North Pacific Ocean lying between the Aleutian Islands and Behring's Strait.
"Imperial Gazetteer," 1855.

Behring's Island. An island in the North Pacific Ocean.
Fullarton's "Gazetteer of the World." 1856.

Behring's Strait, which connects the Pacific with the Arctic Ocean, is formed by the approach of the Continents of America and Asia.
"Cyclopædia of Geography," by Charles Knight. 1856.

Pacific Ocean. Its extreme southern limit is the Antarctic Circle, from which it stretches northward through 132 degrees of latitude to Behring's Strait, which separates it from the Arctic Ocean.
McCulloch's "Geographical Dictionary," edited by F. Martin. 1866.

Behring (Détroit de). Canal ou bras de mer unissant les eaux de l'Océan Glacial Arctique à celles de l'Océan Pacifique.
"Grand Dictionnaire Universel," par M. Pierre Labousse. Paris, 1867.

Behring's Strait. The narrow sea between the north-east part of Asia and the north-west part of North America, connecting the North Pacific with the Arctic Ocean.
"Encyclopædia Britannica," 1875.

Bering (Détroit de). Passage qui unit l'Océan Glacial Arctique au Grand Océan.
St. Martin, "Nouveau Dictionnaire de Géographie Universelle." Paris, 1879.

Behring Sea, or Sea of Kamchatka, is that part of the North Pacific Ocean between the Aleutian Islands in latitude 55° north and Behring Strait in latitude 66° north, by which latter it communicates with the Arctic Ocean.
Lippincott's "Gazetteer of the World." Philadelphia, 1880.

92 Behring, or Bhering. A strait, sea, island, and bay, North Pacific Ocean.
Bryce and Johnston, "Cyclopædia of Geography." London and Glasgow, 1880.

Bering's Meer. Der nordöstlichste Teil des Stillen Ocean's.
Brockhaus' "Conversations Lexicon." Leipzig, 1882.

Beringsstrasse. Meerenge das nordöstlichste Eismeer mit dem Stillen Ocean verbindend.
Ritter's "Geographisch-Statistisch Lexicon." Leipzig, 1883.

Behring's Sea. North-east part of the Pacific between Asia and America.
"Pocket Encyclopædia." Sampson Low, 1888.

Behring Strait connects the Pacific with the Arctic Ocean.
Behring Sea. A part of the Pacific Ocean, commonly known as the Sea of Kamchatka.
Behring's Strait, connecting the North Pacific with the Arctic Ocean.
Chambers' "Encyclopædia," 1888.

Behring's Sea, sometimes called the Sea of Kamchatka, is that portion of the North Pacific Ocean lying between the Aleutian Islands and Behring's Strait.
Blackie's "Modern Cyclopædia," 1889 Edition.

In support of his argument that the term "Pacific Ocean" was not understood at the time as including Behring's Sea, Mr. Blaine has quoted a note which, it appears, was presented by the Russian Minister at Washington after the ratification of the Treaty of the 5th (17th) April, 1824, between the United States and Russia.

In this note Baron Tuyl stated that "the Aleutian Islands, the coasts of Siberia, and the Russian possessions in general on the north-west coast of America to 59° 30′ of north latitude were positively excepted from the liberty of hunting, fishing, and commerce stipulated in favour of United States citizens for ten years." The rights alluded to could not be those contained in the Ist Article of the Treaty, which is unlimited in duration, but those of frequenting the interior seas, harbours, and creeks conferred by Article IV.

Baron Tuyl grounded this construction of the Treaty on the argument that "the coasts of Siberia are washed by the Sea of Okhotsk, the Sea of Kamschatka, and the Icy Sea, and not by the South Sea mentioned in the 1st Article of the Convention," and that "the Aleutian Islands were also washed by the Sea of Kamschatka or Northern Ocean.

He added that "it was not the intention of Russia to impede the free navigation of the Pacific Ocean, and that she would be satisfied with causing to be recognized, as well understood and placed beyond all manner of doubt, the principle that beyond 59° 30′ no vessel could approach her coasts and islands, nor fish or hunt within the distance of 2 marine leagues."*

Mr. Adams, on being shown the draft of the note, stated to Baron Tuyl that, if it were presented, he should return an answer to the effect that "the construction of Treaties depending here upon the Judiciary Tribunals, the Executive Government, even if disposed to acquiesce in that of the Russian Government, as announced by him (Baron Tuyl), could not be [? make it] binding upon the Courts or upon this nation." He went on to say that it would be much better not to present the note, as the United States merchants would not go to trouble the Russians on the coast of Siberia or north of the 57th degree of latitude, and it was wisest not to put such fancies into their heads.

The incident, therefore, shows nothing material to the present issue except that the Russian Minister attempted in a note, which has hitherto been kept secret, to argue that Behring's Sea was not a part of the South Sea (a term which is not employed in the British Treaty), and that Mr. Adams stated that, even if the United States Government were disposed to acquiesce in this view, they could not bind the nation or the Courts to it.

On the other hand, the Regulations of 1881, under which the American schooners "Eliza" and "Henrietta" were seized by the Russian authorities, are headed:

"Notice of Order relative to Commerce on *Russian Pacific Coast:*

"Without a special permit or licence from the Governor-General of Eastern Siberia, foreign vessels are not allowed to carry on trading, hunting, fishing, &c., on the Russian coasts or islands in the Okhotsk and Behring's Seas, or on the north-eastern coast of Asia, or within their sea boundary-line."

(Memorandum in Mr. Lothrop's despatch to Mr. Bayard of the 7th March, 1882. Exec. Doc. No. 106, 50th Congress, 2nd Session, p. 271.)

M. de Giers, in his subsequent note of the 8th May, 1882, speaks of these Regulations as "a notice published by our Consul at Yokohama relative to fishing, hunting, and to trade in the Russian waters of the Pacific." (Ibid., p. 262.)

Mr. Frelinghuysen also speaks of the matter as "touching the Pacific coast fisheries." (Ibid., p. 258.)

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*It does not appear, however, that the proposed limit of 2 leagues was observed or enforced, for in 1868 the Russian Minister for Foreign Affairs, explaining the treatment of theAmerican sealer "Java" in the Sea of Okhotsk, writes:

"Considering that foreign sealers are forbidden by the laws in force to fish in the Russian gulfs and bays at a distance less than 3 miles from the shore." (M. Westmann to Mr. Clay, 31st July, 1868, Ex. Doc. No. 106, 50th Congress, 2nd Session, p. 253.)

UNITED STATES. No. 2 (1891).

FURTHER CORRESPONDENCE

RESPECTING THE

BEHRING SEA SEAL FISHERIES.

[In continuation of "United States No. 1 (1891):" C. 6253.]

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HER MAJESTY.

JUNE, 1891.

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2	Sir J. Pauncefote.....	.....do.....	April 22	Mr. Blaine absent. On his return, will press him to give answer with as little delay as possible.	1
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12	To Sir J. Pauncefote..	Telegraphic..	May 16	Will reply to his telegram as soon as Canadian Government have answered further communication addressed to them.	10
13	Sir J. Pauncefote.....	.....do.....	May 20	President anxious for reply to Mr. Blaine's proposal of 4th May. When may decision of Her Majesty's Government be expected?	10
14	To Sir J. Pauncefote..	.....do.....	May 21	No definitive reply yet received from Canada with regard to proposed *modus vivendi*.	10
15	Sir J. Pauncefote.....	.....do.....	May 22	Mr. Blaine's proposal involves some loss of revenue to the United States Government, as well as considerable loss to American Company.	10
16	.....do.....	.....do.....	May 25	President much concerned at not having received reply from Her Majesty's Government. United States Government cannot detain cruizers or Company's vessels any longer.	10

No.	Name.		Date.	Subject.	Page
17	Sir J. Pauncefote.....	Telegraphic..	1891. May 27	Note received from Acting Secretary of State to the same effect as communication reported in above. Revenue steamer "Rush" has started for seal islands. "Corwin" will very shortly start, but she could still take orders if agreement is arrived at before her departure.	1
18	To Sir J. Pauncefote.....	.....do.....	May 28	Bill to be introduced in Parliament, giving Her Majesty's Government powers for prohibiting seal-fishing in Behring's Sea. Her Majesty's Government can do nothing till Bill is passed.	1

APPENDIX.

1	Sir J. Pauncefote.....	.....	1891. Feb. 20	Reports of United States Treasury Agents on affairs in seal islands, and fur-seal fisheries in 1890.	1
2	.....do	.....	May 11	Introduction to Professor Elliott's Report on condition of seal-life at the Pribyloff Islands in summer of 1890.	2

FURTHER CORRESPONDENCE RESPECTING THE BEHRING SEA SEAL FISHERIES.

No. 1.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *April 17, 1891.*

Behring's Sea. Mr. Blaine's suggestion, which you mention in your private letter of the 7th April, that, pending the award of the Arbitration on the Behring's Sea question, all seal fishery should be stopped, both by sea and land, seems worthy of consideration.

If we approve of it, would Mr. Blaine prefer that the proposal should come from us?

No. 2.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 22.)

[Telegraphic.]

WASHINGTON, *April 22, 1891.*

I have the honour to inform your Lordship that Mr. Blaine left this city for the sea-side on the 15th. As the date of his return was uncertain, I addressed a letter to him on the 20th in the sense of your Lordship's telegram of the 17th, making the inquiry which I was therein instructed to make. I am now informed that his return is expected in a few days.

I am informed that it is in the power of the United States Government to cancel the lease of the islands at any time.

I will lose no time in pressing Mr. Blaine to send me an answer with as little delay as possible.

No. 3.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 23.)

[Telegraphic.]

WASHINGTON, *April 23, 1891.*

I have the honour to report that the Secretary of State returned to Washington to-day, and invited me to call on him.

He expressed himself as gratified at the favourable consideration given by Her Majesty's Government to his alternative suggestion, and

in answer to your Lordship's inquiry he said he would prefer that the proposal, which seemed to him very fair, should come from Her Majesty's Government.

He added that he wished, however, before going any further, to communicate the proposal by telegraph to-day to the President, who is absent from Washington.

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2 No. 4.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 27.)

[Telegraphic.]

WASHINGTON, *April 27, 1891.*

Mr. Blaine informed me to-day that the President had suggested a small reservation in the proposed *modus vivendi* to the effect that permission should be given to the Company to kill a small number of seals sufficient to compensate them for the support of the natives in their employ during the *modus vivendi*, but he did not appear to insist strongly on it.

As, however, he will not agree to put the arrangement in force until the terms of the arbitration are settled, I fear it may only be applied when it is too late to be of any service.

A full report of the interview above mentioned will be found in my despatch of this day's date, which I am sending by mail to-morrow.

No. 5.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 5.)

[Telegraphic.]

WASHINGTON, *May 5, 1891.*

Behring's Sea. With reference to my telegram of the 27th ultimo, I have the honour to inform your Lordship that I forward by messenger to-day copy of a note from Mr. Blaine which I received last night, containing a lengthy justification of the reservation made by the President, and submitting for communication to your Lordship the following detailed proposal for a *modus vivendi* for the season of 1891:

1. The United States authorities to issue orders limiting the number of seals to be killed on the islands to 7,500 solely in order to provide for the support of the resident natives, who number 300 souls. Pending the result of the arbitration, all seal-killing for commercial purposes to be prohibited.

2. The United States Government to guarantee to Great Britain that no seals shall be killed in any part of the open waters of Behring's Sea by any person on board of any vessel flying the United States flag, or by any United States citizen on board of any vessel flying any other flag.

3. *Mutatis mutandis*, a similar guarantee to be given by Her Majesty's Government as regards British subjects and vessels.

4. The above prohibitions to continue in force up to the 1st May, 1892, before which date the Arbitrators are to render to both Governments their final award.

No. 6.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 8.)

WASHINGTON, *April 27, 1891.*

MY LORD: With reference to my telegam of the 22nd instant, I have the honour to inclose a copy of the note which I addressed to Mr. Blaine, as reported in my above-mentioned telegram, informing him that your Lordship was disposed favourably to entertain his alternative suggestion for a *modus vivendi* pending the result of the Behring's Sea arbitration, namely, to stop all sealing, both at sea and on land, and inquiring whether, in case the proposal be finally accepted, he would prefer that it should be made by Her Majesty's Government.

In my telegram of the 23rd instant I had the honour to report to your Lordship the verbal reply which I had received from Mr. Blaine to that communication. It was to the effect that he would prefer that the proposal should come from Her Majesty's Government, but that before taking any further step he desired to communicate by telegraph with the President, who was absent from Washington. I called to-day on Mr. Blaine to inquire whether he was now prepared to proceed with the proposal. He informed me that the President felt some difficulty arising from the fact that the lessees of the Pribyloff Islands are under contract to maintain a large number of natives (Aleuts) engaged in
3 their sealing operations, and these they would have to support at a heavy loss during the whole period of the *modus vivendi*. This loss would ultimately fall on the United States Government, and he had, therefore, suggested whether it might not be stipulated that a moderate number of seals might be killed on the islands, sufficient to cover the loss in question. I replied that I did not think such a suggestion would commend itself to your Lordship. The proposal that sealing should be stopped, both at sea and on land, was based on the recommendation of the United States Government Agents, whose Reports had been laid before Congress, and copies of which I transmitted to your Lordship in my despatch No. 41 of the 20th February last.

In acceding to the proposal, Her Majesty's Government would give a striking proof of their solicitude for the preservation of the seal species, and of the spirit of conciliation with which they were animated. There was to be an equal sacrifice on both sides, and it would be unreasonable that the proposed *modus vivendi* should be saddled with any special reservation for the benefit of either party.

I further observed that, in view of the fact that the opening of the fishery season is already at hand, no time should be lost in putting it into force, if it is to be of any value this season.

I suggested that it might be agreed to put it in force for this season, irrespectively of the arbitration, and that in such case it would be a convenient time to send a Joint Commission of Experts to the Islands to collect evidence for the purposes of arbitration. I failed to perceive how any Arbitrators would undertake to pronounce an award on the question of a close time without proper materials on which to found their judgment, and these materials could alone be supplied by a Joint Commission. I added that I had no authority from your Lordship to make such a suggestion, but that I ventured to throw it out for consideration. Mr. Blaine replied that, as regards the reservation of the right to kill a limited number of seals on the islands to cover the loss which would result to the Company for the support of the Aleuts in their employ, that was a condition which might perhaps not be insisted

on; but he was absolutely opposed to the suggestion of sending a Joint Commission of Experts to Behring's Sea, or to putting in force the *modus vivendi* until the terms of the arbitration had been definitely agreed to.

I pointed out that if this were to be a condition of the arrangement, it would probably be too late to put it in force this season, in view of the time which might elapse before the preliminaries of the arbitration had been settled, and I reminded him that his proposal was simply that it should take effect "pending the result of the arbitration."

He replied that his proposal, as understood by the President as well as himself, was subject to that condition, and he seemed to attach importance to it as being calculated to accelerate your Lordship's acceptance of the terms of arbitration proposed by his Government. I therefore explained to him that all your Lordship knew at present respecting the proposal was that it had been made by the United States Government, obviously in their own interest, and that Her Majesty's Government had certainly nothing to gain by acceding to it. I begged him to disabuse the mind of the President of the idea that your Lordship, in giving the proposal a favourable consideration, had been actuated by any other sentiment than that of friendliness to the United States Government.

I added that if owing to delay in the settlement of the terms of arbitration, the proposed *modus vivendi* should not be put in force this season, and the predictions of the United States Government Agents as to the consequences which must ensue from the non-cessation of sealing should be verified, the blame would certainly not attach to Her Majesty's Government.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 6.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *April 20, 1891.*

DEAR MR. BLAINE: I informed Lord Salisbury in a private letter of your alternative suggestion for a *modus vivendi*, pending the result of the Behring's Sea arbitration, namely, to stop all sealing both at sea and on land.

Lord Salisbury seems to approve of that alternative, and he asks whether, in case Her Majesty's Government should accept it, you would prefer that the proposal should come from them.

I thought you would like to know Lord Salisbury's view of your proposal as soon as possible, and that must be my excuse for troubling you with this letter during your repose at Virginia Beach.

May I ask you to be so good as to let me know, as soon as you conveniently can do so, what answer you would wish me to return to Lord Salisbury's inquiry.

Hoping that you have already benefited by the change of air, I remain, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 7.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 10.)

[Telegraphic.]

WASHINGTON, *May 10, 1891.*

A newspaper has just published the text of Professor Elliott's introduction to his Report on the condition of seal life on the United States seal islands in Behring's Sea, which he addressed in November last to the Secretary of the Treasury.

I will transmit a copy to your Lordship by the mail of the 12th instant.

In this Report Professor Elliott insists strongly on the necessity of the cessation of seal killing, both on land and at sea, and on the appointment of a Joint Commission of American, British, and Russian experts to proceed to the rookeries this summer to verify the precise condition of affairs.

The usual date for the revenue-cruizers and the Company's steamer to sail is the 15th instant, and it is very important that I should, as early as practicable, be in a position to reply to Mr. Blaine's proposal.

No. 8.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 10.)

[Telegraphic.]

WASHINGTON, *May 10, 1891.*

I have just received, from a trustworthy authority, the following Memorandum on the subject of the reservation in the proposed *modus vivendi* desired by the President, which throws a new light on the provision in question.

It is as follows:

Food Skins.—The slaughter for food of 5,000 small seals annually on St. Paul Island, and 2,000 on St. George Island, will be amply sufficient to keep the natives of the seal islands in good condition physically. The profit to the United States Government from the sale of these food skins would be not less than 70,000 dollars a year, which is 20,000 dollars more than it would cost to provide them with fuel, clothing, and other necessaries.

To kill more than these 7,000 young male seals would be simply a wanton and uncalled-for destruction of life, and would imperil the restoration of the rookeries to their former condition.

The Memorandum quoted above shows that it is necessary for the health of the natives to supply them with seals for food.

No. 9.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 14.)

WASHINGTON, *May 4, 1891.*

MY LORD: Owing to the communications which have passed between Mr. Blaine and the North American Commercial Company (the present lessees of the seal islands in Behring's Sea) respecting the proposed cessation of the killing of seals both at sea and on land during the approaching fishery season, the rumour has found its way in the press that such a proposal has either been made by Her Majesty's Government, or that they are willing to assent to it, and that Mr. Blaine is prevented from carrying it out by the vehement opposition of the Company.

It may be convenient that I should place on record what took place between Mr. Blaine and myself on the subject of his second or alternative proposal for a *modus vivendi*, which I communicated to your Lordship privately on the 7th April last.

Mr. Blaine made his first proposal on the 16th March. He then stated that, as there now seemed to be a prospect of agreeing to the terms of an arbitration, it was desirable to arrange for a *modus vivendi* pending its result, and he threw out a suggestion of a radius of 25 miles within which sealing-vessels should be prohibited from approaching the seal islands. I acquainted your Lordship with that proposal in my telegram of the 16th March.

About a fortnight afterwards, at an interview which Mr. Blaine was good enough to give me at his house when he was confined by indisposition, he reverted to the subject of the *modus vivendi*, and he asked me to ascertain whether your Lordship would prefer as an alternative proposal that the killing of seals should be stopped both at sea and on land pending the result of the arbitration.

I should here observe that for some time past I had been pressing Mr. Blaine most urgently, but in vain, for a reply to your Lordship's despatch of the 21st February, in which certain modifications were proposed in the questions which he had formulated in his note of the 17th December, 1890, for the purposes of the arbitration. The delay in returning a reply to your Lordship's despatch appeared to me disquieting, and he spoke somewhat despondingly in the presence of Sir Charles Tupper of the prospect of an adjustment of the questions for arbitration. I therefore informed Mr. Blaine that I hesitated to transmit to your Lordship any further proposals respecting a *modus vivendi* until there was reason to believe that the arbitration proposals contained in your Lordship's despatch above referred to would be accepted; and I suggested that the most satisfactory course would be for him to make his proposals for a *modus vivendi* concurrently with his reply to that despatch.

Mr. Blaine assented to my suggestion, and said that he would "proceed in that order." But neither in his reply to your Lordship's despatch, which was delivered on the 14th April, nor in the substituted note delivered the 27th April, is there anything to be found in relation to a *modus vivendi*. In the meanwhile, I had informed your Lordship privately, by the mail of the 7th April, of Mr. Blaine's alternative proposal for the cessation of seal-killing both at sea and on land, and on receipt of your Lordship's telegram of the 17th April, I addressed a note to him, of which I had the honour to inclose a copy in my despatch of the 27th April.

In that despatch I reported the difficulties which were afterwards raised by the President and by Mr. Blaine, and which appeared to me to render hopeless the timely application of the proposed *modus vivendi*. Since then, as before stated, the subject has been discussed in the public press.

The opposition journals criticize severely the non-publication of Professor Elliott's Report on the condition of the seal islands during the season of 1890, and also the dismissal of Mr. Goff, the Treasury Agent in charge of the islands, who had last summer exercised his official authority to stop the killing of seals by the Company, owing to the indiscriminate slaughter practised there, and to the alarming diminution of seal life. Mr. Blaine is violently attacked by those journals for hesitating to put in force at once the proposed *modus vivendi* in the face of the Reports of the United States' Government Agents, and in view of the readiness of Her Majesty's Government to accept the proposal.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 10.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 14.)

WASHINGTON, *May 5, 1891.*

MY LORD: I have the honour to inclose a copy of a note which I received last night from Mr. Blaine containing detailed proposals for a *modus vivendi* during the approaching fishery season in Behring's Sea, based on the principle of a cessation of seal killing both at sea and on land. The note contains a lengthy defence of the reservation desired by the President of the right to kill 7,500 seals for the support of the native residents of the Pribyloff Islands, a reservation which seems to me seriously to detract from the equality and simplicity of the original proposal. As regards Mr. Blaine's narrative of what passed between us in relation to the proposed *modus vivendi*, your Lordship will perceive from my despatch of yesterday's date that he appears to have forgotten that the reason why I did not telegraph to your Lordship his alternative proposal for a *modus vivendi* was that it had been arranged between us, at my suggestion, that he should make the proposal concurrently with his reply to your Lordship's despatch of the 21st February, for which I had so urgently pressed him.

I cannot call to my mind that the President's name was ever mentioned in the course of our two interviews, which Mr. Blaine correctly describes as "a conversational exchange of views."

If the President was so anxious that the alternative proposal should be telegraphed at once to your Lordship, it is to be regretted that Mr. Blaine did not apprize me of the President's wishes, as I should have certainly complied with them.

Mr. Blaine's reply to your Lordship's despatch of the 21st February was not delivered until the 14th April, and then it was not accompanied by the proposal for a *modus vivendi*. But fortunately I had informed your Lordship of the proposal by letter a few days after it was made, and I received a prompt reply by telegram which I communicated to Mr. Blaine on the 20th April.

Mr. Blaine, therefore, cannot justly complain of any delay on my part, or on the part of Her Majesty's Government, in relation to this matter.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 10.]

Mr. Blaine to Sir J. Pauncefote.

WASHINGTON, *May 4, 1891.*

SIR: During the month of March last, a few days after the adjournment of Congress, acting under the instructions of the President, I proposed to you that a *modus vivendi* be agreed upon touching the seal fisheries pending the result of arbitration of the question at issue between the two Governments. The President's first proposal which I submitted to you was that no Canadian sealer should be allowed to come within a certain number of miles of the Pribyloff Islands.

It was, however, the conclusion of the President, after reading Lord Salisbury's despatch of the 21st February, that this *modus vivendi* might possibly provoke conflict in the Behring's Sea, and to avoid that result, he instructed me to propose that sealing both on land and sea, should be suspended by both nations during the progress of arbitration, or during the season of 1891. On both occasions it was a conversational exchange of views, the first at my office at the State Department, the second at my residence.

The President was so desirous of a prompt response from Lord Salisbury to his second proposition, that I ventured to suggest that you request an answer by cable if practicable. Especially was the President anxious to receive an answer, which he trusted would be favourable, before he should set out on his tour to the Pacific States. He left Washington on the night of the 13th April without having heard a word from your Government. It was then a full month after he had instructed me to open negotiations on the question, and the only probable inference was that Lord Salisbury would not agree to his proposal.

The silence of Lord Salisbury implied, as seemed not improbable, that he would not restrain the Canadian sealers from entering Behring's Sea, and as all intelligence from British Columbia showed that the sealers were getting ready to sail in large numbers, the President found that he could not with justice prevent the lessees from taking seals on the Pribyloff Islands. The President therefore instructed the Secretary of the Treasury, who has official charge of the subject, to issue to the lessees the privilege of killing on the Pribyloff Islands the coming season the maximum number of 60,000 seals, subject, however, to the absolute discretion and power of an agent appointed by the Secretary of the Treasury to limit the killing to as small a number as the condition of the herd might, in his opinion, demand.

7 . On the 22nd April, eight days after the President had left Washington, you notified me when I was absent from the capital that Lord Salisbury was ready to agree that all sealing should be suspended pending the result of arbitration.

On the 23rd April I telegraphed Lord Salisbury's proposition to the President.

He replied on the 25th April, expressing great satisfaction at Lord Salisbury's message, but instructing me to inform you that "some seals must be killed by the natives for food;" that "the lessees are bound under their lease from the Government to feed and care for the natives, making it necessary to send a ship to the Pribyloff Islands at their expense;" and that for this service—a very expensive one—the "lessees should find their compensation in taking a moderate number of seals under the lease." The President expressed his belief that this allowance would be readily agreed to by Lord Salisbury, because the necessity is absolute.

You will remember that when I communicated this proposition from the President to you on the evening of Monday, the 27th April, you did not agree to the President's suggestion. On the contrary, you expressed yourself as confident that Lord Salisbury would not accept it; that, in your judgment, the killing of seals must be cut off absolutely on the land and in the water; and that it could not be stopped on either unless stopped on both.

The narrative of facts which I have now given, absolutely necessary for clearly understanding the position of this Government, brings me to a further statement which I am directed by the President to submit. The President refuses to believe that Lord Salisbury could possibly maintain the position you have taken when his Lordship is placed in full possession of the facts, which I shall now submit to you somewhat in detail.

When the privilege of killing seals on the Islands of St. George and St. Paul in Behring's Sea was leased to the North American Company for a certain sum per skin to be paid to the Government, other duties of an onerous, costly, and responsible character were imposed upon the Company.

Under their lease, the Company is obliged "to furnish to the inhabitants of the Islands of St. George and St. Paul annually such quantity or number of dried salmon, and such quantity of salt and such number of salt barrels for preserving their necessary supply of meat, as the Secretary of the Treasury shall from time to time determine."

The Company is further obliged to "furnish to the inhabitants of these islands 80 tons of coal annually, and a sufficient number of comfortable dwellings in which said natives may reside, and shall keep such dwellings in proper repair."

The Company is further obliged "to provide and keep in repair such suitable school houses as may be necessary, and shall establish and maintain during eight months of each year proper schools for the education of the children on said islands, the same to be taught by competent teachers, who shall be paid by the Company a fair compensation, all to the satisfaction of the Secretary of the Treasury."

The Company is further obliged to "maintain a suitable house for religious worship, and will also provide a competent physician, or physicians, and necessary and proper medicines and medical supplies."

The Company is still further obliged "to provide the necessaries of life for the widows and orphans, aged and infirm inhabitants of said islands, who are unable to provide for themselves."

And it is finally provided that "all the foregoing agreements shall be done and performed by the Company free of all costs and charges to the said native inhabitants of said islands, or to the United States."

And it is made still further the duty of the Company "to employ the native inhabitants of said islands to perform such labour upon the islands as they are fitted

to perform, and to pay therefor a fair and just compensation, such as may be fixed by the Secretary of the Treasury." And also the Company "agrees to contribute as far as in its power all reasonable efforts to secure the comfort, health, education, and promote the morals and civilization of said native inhabitants."

In short, then, the means of living, the facilities for education, the care of health, the religious teaching, the training of the young, and the comfort of the old, in a community of over 300 persons, are all imposed upon the Company as its solemn duty by specific Articles of the lease. I inclose you a copy of Census of 1890, giving every name of the 303 persons, old and young, male and female, who constitute the whole community of the Pribyloff Islands.*

8 The duties thus imposed upon the Company must be discharged annually with punctuality and exactness. The comfort, possibly the safety, of all these human beings, peculiarly helpless when left to themselves, is dependent upon the Company under the lease, and the lessees are paid therefor by the Government in the seal-skins which the Company receive for the service. If the Company shall, as you say Lord Salisbury requests, be deprived of all privilege of taking seals, they certainly could not be compelled to minister to the wants of these 300 inhabitants for an entire year. If these islanders are to be left to charity, the North American Company is under no greater obligation to extend it to them than are other citizens of the United States. It evidently requires a considerable sum of money to furnish all the supplies named in the lease—supplies which must be carried 4,000 miles on a specially chartered steamer. If the lessees are not to be allowed payment in any form for the amount necessary to support these 300 people on the islands, they will naturally decline to expend it.

No appropriation of money has been made by Congress for the purpose, and the President cannot leave these worthy and innocent people to the hazard of starvation even to secure any form of Agreement with Lord Salisbury touching seal life. Seal life may be valuable, but the first duty of the Government of the United States in this matter is to protect human life.

In this exigency, the President instructs me to propose to Lord Salisbury that he concede to the North American Company the right to take a sufficient number of seals, and no more than sufficient, to recompense them for their outlay in taking care of the natives, and that, in the phrase of the President, all "commercial killing of seals be prohibited pending the result of arbitration."

The Secretary of the Treasury has a right to fix the number necessary to the end desired. After full consideration, he has limited the number to 7,500 to be killed by the Company to repay them for the outlay demanded for the support of the 300 people on the Pribyloff Islands.

He further directs that no females be killed, and that thus the productive capacity of the herd shall not in the slightest degree be impaired.

This point being fixed and agreed to, the proposed Arrangement between the two countries would be as follows:

The Government of the United States limits the number of seals to be killed on the islands for purposes just described to 7,500.

The Government of the United States guarantees that no seals shall be killed in the open waters of Behring's Sea by any person on any vessel sailing under the American flag, or by any American citizen sailing under any other flag.

The Government of Great Britain guarantees that no seals shall be killed in the open waters of Behring's Sea by any person on any vessel sailing under the British flag, and that no British subject shall engage in killing seals for the time agreed upon on any vessel sailing under any other flag.

These prohibitions shall continue until the 1st day of May, 1892, within which time the Arbitrators shall render final award or awards to both Governments.

These several propositions are submitted for the consideration of Lord Salisbury. The President believes that they are calculated to produce a result at once fair and honourable to both Governments, and thus lead to the permanent adjustment of a controversy which has already been left too long at issue.

I have, &c.

(Signed) J. G. BLAINE.

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*For Inclosure, see Inclosure in Sir J. Pauncefote's despatch, dated February 20, 1891: Appendix, No. 1.

No. 11.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 14.)

WASHINGTON, *May 5, 1891.*

MY LORD: With reference to my immediately preceding despatch, have the honour to inclose herewith copy of a note which I have thi day addressed to Mr. Blaine in answer to his communication of yeste day relative to a *modus vivendi* in Behring's Sea.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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9 [Inclosure in No. 11.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *May 5, 1891.*

SIR: I have the honour to acknowledge the receipt of your note of yesterday, in which you have formulated, for the consideration of the Marquis of Salisbury, detailed proposals for the *modus vivendi* during the approaching fishery season in Behring's Sea on the principle of a cessation of seal killing both at sea and on land, an arrangement to which, as I informed you in my note of the 20th ultimo, his Lordship was disposed to give his favourable consideration. I have forwarded to Lord Salisbury by this day's mail a copy of your note, and I have telegraphed to his Lordship the precise terms of the proposal with which it concludes.

I much regret to find that a misconception has arisen as regards your complaint of delay on my part in acquainting Lord Salisbury with your second or alternative proposal for a cessation of seal killing at sea and on land, which you originally made to me verbally. On that occasion, you may remember that I expressed some reluctance at sending any further proposals to his Lordship while his despatch of the 21st February last (submitting amendments on the questions for arbitration) remained unanswered, and that I suggested that it would be more satisfactory if this new proposal were made concurrently with your reply to that despatch, which I hoped to receive with the least possible delay.

I understood you to assent to that suggestion, and to say that you would "proceed in that order."

If you had informed me that the President for any reason desired that this alternative proposal should be telegraphed to Lord Salisbury, I need hardly say that I should have complied at once with his wishes.

But I cannot call to mind that the President's name was ever mentioned at our interview, which you correctly describe as "a conversational exchange of views."

Fortunately, however, no appreciable loss of time occurred. I acquainted Lord Salisbury with your alternative proposal by the mail of the 7th April, a few days only after it was made, and I received a prompt answer by telegraph, which enabled me to inform you by my note of the 20th April that his Lordship was disposed to consider the proposal favourably.

At an interview at your residence on the 23rd April you expressed your satisfaction at Lord Salisbury's reply, and you stated that before taking any further steps you desired to communicate by telegraph with the President.

At a further interview at your residence on the 27th, you informed me that the President desired that the *modus vivendi* should contain a reservation of the right to kill a certain number of seals for the support of the natives of the Pribyloff Island.

At first sight this reservation caused me some disappointment. It certainly appeared to me open to exception as detracting from the principle of equality, which was a feature of the original proposal. But I was more concerned at your stating that it never was the intention of the President or of yourself that the *modus vivendi* should be put in force until the terms of arbitration had been settled.

This I feared would prevent the timely application of the *modus vivendi*, and I at once informed Lord Salisbury by telegraph on the same day.

I notice with satisfaction that no such condition is affixed to your present proposal, although the reservation as to the killing of a limited number of seals on the island is maintained.

I am glad to think that there is yet time to carry out for this fishery season an arrangement which may promptly be agreed to, and I hope that the above explana

tion may remove the impression you appear to have formed, that there has been any delay on my part in expediting the consideration of the *modus vivendi* which you have proposed.

I remain, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 12.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *May 16, 1891.*

As soon as the Government of Canada have answered communication addressed to them I will reply to your telegram.

No. 13.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 21, 9 a. m.)

[Telegraphic.]

WASHINGTON, *May 20, 1891.*

I have just received a letter from the Acting Secretary of State informing me that the President wishes to know the reply of Her Majesty's Government to the proposal made on 4th May by Mr. Blaine.

In order to allay the President's anxiety, I shall be obliged if your Lordship can give me some intimation as to when the decision of Her Majesty's Government may be expected.

No. 14.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *May 21, 1891.*

No definitive reply has yet been received from Canada with regard to the proposed *modus vivendi* in Behring's Sea.

No. 15.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 22, 6 p. m.)

[Telegraphic.]

WASHINGTON, *May 22, 1891.*

I omitted to inform your Lordship that Mr. Blaine's proposal involves to the United States Government a loss of revenue from the Seal Company at the rate of 10 dollars per skin, which amounts to about half-a-million dollars in all. In respect of the arrangements made for this season, the Company would also be great losers.

No. 16.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 26, 10.15 a. m.)

[Telegraphic.]

WASHINGTON, *May 25, 1891.*

I received a visit to-day from the Acting Secretary of State, who came, by desire of the President, to express his deep concern that no reply to Mr. Blaine's proposal had been received from Her Majesty's Government. By each day's delay more detriment was caused to the United States interests. Owing to the unprotected state of the islands, and to their being unprovided with rations and stores, the United States Government are unable any longer to detain their cruizers or the vessels of the Company.

I begged him to assure the President, in reply, that all possible expedition was being used by your Lordship; but the form of Mr. Blaine's proposal, as well as the lateness of the time when it was made, had given rise to grave difficulties, some of which I explained to him. I told him that I hoped in a day or two to receive the reply, but that I would telegraph the substance of his communication to your Lordship.

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11 No. 17.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 27, 8 p. m.)

[Telegraphic.]

WASHINGTON, *May 27, 1891.*

The Acting Secretary of State has just written me a note to the same effect as his verbal communication which I reported in my telegram of the 25th May.

He adds, however, that the United States Government have found it necessary to dispatch the revenue-steamer "Rush" to the islands, and that the "Corwin" is nearly ready to sail at San Francisco, and will very shortly put to sea.

Should an agreement, as proposed, be arrived at before her departure to limit the seal catch, she can still take appropriate orders.

No. 18.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *May 28, 1891.*

I have to inform you that to-night notice will be given of a Bill giving power to Her Majesty to prohibit for a limited time the hunting of seals in Behring's Sea.

It is hoped that the House of Commons will sanction this Bill within a few days, but until this has been done it is impossible for Her Maj-

esty's Government to agree formally with that of the United States as to a *modus vivendi*, or to send cruizers with instructions to prevent the sealing-vessels from entering Behring's Sea.

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12 APPENDIX.

No. 1.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 2.)

WASHINGTON, *February 20, 1891.*

MY LORD: I have the honour to inclose copies of Reports of Special Treasury Agent C. J. Goff, and Assistant Treasury Agents A. W. Lavender, S. R. Nettleton, and J. Murray, with accompanying documents, concerning the condition of affairs in the Seal Islands of Alaska and the fur-seal fisheries for 1890.

These Reports have been transmitted to the Senate by the Treasury Department in response to a Resolution of that body, but your Lordship will perceive that they do not include the Report of Professor Elliott, to which reference has frequently been made, and which, up to the present time, has been withheld from publication.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 1.]

(51st Congress, 2nd Session.—Ex. Doc. No. 49.)

SENATE.

Letter from the Acting Secretary of the Treasury, transmitting, in response to a Resolution of the Senate, Reports concerning the Condition of the Seal Islands of Alaska.

FEBRUARY 10, 1891.—Referred to the Committee on Commerce and ordered to be printed.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 9, 1891.

SIR: In pursuance of the Resolutions of the Senate of the United States dated the 10th and 12th ultimo respectively, I have the honour to transmit herewith copies of the following Reports of Special Treasury Agent Charles J. Goff, and Assistant Treasury Agents A. W. Lavender, S. R. Nettleton, and Joseph Murray, with their accompanying documents, concerning the condition of affairs in the Seal Islands of Alaska, and relating to the fur-seal fisheries for the year 1890, &c., viz.:

1. Letter of Charles J. Goff, dated July 31, 1890, submitting Annual Report, with the following inclosures:

(A.) Annual Report, 1890, dated July 31, 1890.
(B.) Report of Joseph Murray, dated July 31, 1890.
(C.) Report of A. W. Lavender, Assistant Treasury Agent, dated July 26, 1890.
(D.) Statement of seals killed for year ended July 20, 1890, on St. Paul Island.
(E.) Statement of seals killed for year ended July 20, 1890, on St. George Island.
(F.) Statement of seals killed for food on St. Paul Island during the year ended May 21, 1890.
(G.) Statement of seals killed in 1889 on St. Paul Island by the Alaska Commercial Company, and by the North American Commercial Company in 1890; also daily Weather Report.
(H.) Statement of skins accepted on Seal Islands from 1870 to 1890.
(I.) Statement of liabilities of North American Commercial Company to natives of St. Paul Island to August 1, 1890.
13 (J.) Account current of North American Commercial Company with United States on Island of St. Paul, 1890.

(K.) Account current of North American Commercial Company with United States on Island of St. George, 1890.
(L.) Census of St. Paul Island, Alaska, July 31, 1890.
(M.) Census of St. George Island, July 31, 1890.
(N.) Statement of accounts transferred to the North American Commercial Company by the Alaska Commercial Company for natives of St. George, May 24, 1890. List of accounts due natives of St. George Island by North American Commercial Company.
(O.) Receipts of Agents Lavender and Murray, August 9 and 11, 1890, for seals shipped from islands.
(P.) Protest of George R. Tingle, Superintendent of North American Commercial Company, against closing season, July 20, 1890, and reply of Charles J. Goff, Treasury Agent.
(Q.) Statement of skins taken on St. Paul Island from 1870 to 1890 by Alaska Commercial Company; also seals killed for food for natives, &c.
2. Report of S. R. Nettleton, Assistant Treasury Agent, July 31, 1890, of affairs on St. Paul Island, 1890.
3. Report of A. W. Lavender, Assistant Treasury Agent, of August 25, 1890, of affairs on St. George Island, 1890.
4. Report of A. W. Lavender, Assistant Treasury Agent, October 24, 1890.
5. Report of A. W. Lavender, Assistant Treasury Agent, October 30, 1890.
6. Report of A. W. Lavender, Assistant Treasury Agent, March 19, 1890, as to schooners seized by the Government from 1886 to 1889, their condition, &c.

Respectfully yours,

(Signed) A. B. NETTLETON, *Acting Secretary.*

The PRESIDENT OF THE SENATE,
Washington, D. C.

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1. *Letter of Charles J. Goff, submitting Annual Report.*

ST. PAUL ISLAND, ALASKA, *July 31, 1890.*

SIR: I herewith respectfully submit my Annual Report of the condition of the seal fisheries for the year 1890. Also such tabulated statements and communications as should be in the hands of the Department, as follows:
(A.) My annual written Report.
(B.) Mr. Joseph Murray, First Assistant Treasury Agent's Report, St. George Island.
(C.) Mr. A. W. Lavender, Assistant Treasury Agent's Report, St. George Island.
(D.) Statement of St. Paul Island daily killing.
(E.) Statement of St. George Island daily killing.
(F.) Statement of fur-seals killed for food upon St. Paul and St. George Islands, and disposition of the skins.
(G.) Table comparing daily killing of 1889 with that of 1890, also giving daily Weather Report for each year.
(H.) Table showing the beginning of each sealing season on the islands from 1870 to 1890 inclusive, and number of fur-seals accepted by the lessees up to July 20 of each year.
(I.) Showing the distribution of natives' earnings for season of 1889 and 1890; also amount transferred by the Alaska Commercial Company to the North American Commercial Company, and the amount to the credit of the natives in the hands of the North American Commercial Company, August 1, 1890, and my instructions to the representatives of the Alaska and North American Commercial Company.
(J.) Account current St. Paul Island.
(K.) Account current St. George Island.
(L.) Census St. Paul Island.
(M.) Census St. George Island.
(N.) Distribution of natives' earnings St. George Island.
(O.) Steamer "Arago," Captain H. C. Thomas, receipts for season's catch of fur-seals, 1890.
(P.) Mr. George R. Tingle's communication protesting against the order stopping the killing of seals, July 20, and my reply.
14 (Q.) Table showing the number of seals killed by the Alaska Commercial Company yearly, for the twenty years of their lease. The distribution of the natives' earnings for same period, &c., for the Islands of St. Paul and St. George.

Respectfully yours,

(Signed) CHARLES J. GOFF,
Treasury Agent in charge of the Seal Fisheries.

Hon. WILLIAM WINDOM,
Secretary of the Treasury, Washington, D. C.

(A.)—*Annual Report, 1890.*

ST. PAUL ISLAND, ALASKA, *July 31, 1890.*

SIR: Pursuant to instructions, I sailed from San Francisco on the 6th May on the North American Commercial Company's steamer "Arago," accompanied by Mr. A. W. Lavender, Assistant Treasury Agent, who, after his arrival, was stationed upon St. George Island to assist Mr. Joseph Murray in the discharge of his duties during the killing season, and who will have charge of the island during the coming winter. We arrived at Ounalaska on the 18th May, and on the 20th Mr. George R. Tingle, Mr. Rudolph Newman, and myself sailed on the Alaska Commercial Company's steamer "Dora" for the Seal Islands, to take an inventory of the property on St. George and St. Paul, belonging to the Alaska Commercial Company, according to an Agreement signed by and between the Alaska Commercial Company and the North American Commercial Company on the 12th March, 1890.

The Alaska Commercial Company was represented by Mr. Newman, and the North American Commercial Company by Mr. Tingle, and I acted as Umpire, as per your instructions, bearing date the 16th April, 1890. We arrived at St. Paul Island on the 21st May, and immediately commenced to take stock. After several days' labour the business was well in hand, and we proceeded to St. George Island per steamer "Dora," and made a complete inspection and inventory of all the property there belonging to the Alaska Commercial Company. After our return to St. Paul there was one difference referred to me, and satisfactorily adjusted, then the entire business was settled by the representatives of their respective Companies.

The following property was transferred to the North American Commercial Company: sixty-three native houses on St. Paul and nineteen upon St. George, and upon both islands all buildings and other property belonging to the Alaska Commercial Company.

Upon St. Paul Island the sum of 9,213 dol. 58 c. belonging to the natives and deposited with the Alaska Commercial Company was passed to the North American Commercial Company with the consent of the natives, and credited to their "pass book" accounts. Also several special individual deposits amounting to 12,117 dol. 2 c., drawing interest at 4 per cent. per annum, leaving in the hands of the Alaska Commercial Company 3,404 dol. 99 c. to the credit of Mrs. Alexander Milevedoff, who did not wish to make a change. On St. George 5,391 dol. 17 c. was transferred to the North American Commercial Company, but from this amount the sum of 1,700 dollars, belonging to the priest, must be deducted, leaving a balance of 3,691 dol. 87 c. to the credit of the natives. The transfer was made and dated the 24th May, 1890.

The past winter was unusually mild, the sanitary condition of the village was good, the people were blessed with good health, and they passed the time pleasantly. They were under the combined charge of Mr. S. R. Nettleton, Assistant Treasury Agent; Dr. C. A. Lutz, resident physician, and Mr. J. C. Redpath, resident agent for the Alaska Commercial Company.

With the spring came that dreaded disease to this people, pneumonia, which caused the death of three sealers; other ailments prevalent among them carried off seven others, women and children, making a total of ten deaths since the 1st January, 1890, the date of the census, leaving at present a total population of 208. The population of St. Paul Island in 1872, as far back as the official records go, was 218. Arrivals since then, seventy-six. Had it not been for this influx of immigration the native population would have been about extinct. The established rule of thoroughly cleaning the village in the spring and fall presents a marked contrast to the condition of the place a few years ago. All along the green sward, in front of the dwellings, which was then a depository for filth and offal, the children romp and play. Gradually, too, the people are becoming more reconciled to cleaner methods in their dwellings, and many of them take great pride in their personal appearance and cleanliness. The school on this island was taught by Simeon Milevedoff, a native, who was educated in San Francisco. It was opened on the 1st September, 1889, and closed 1st May, 1890—total number of school days, 172; number taught, 120.

Mr. Milevedoff was energetic and untiring in his efforts to advance the pupils, but there is very little interest taken by them in English-speaking schools, so that there was but little progress made.

The North American Commercial Company have commenced repairing the native dwelling-houses, and so far have complied with all the requirements of their lease. The United States cutter the "Bear," Captain M. A. Healey, anchored off this island on the 20th June and left on the same day. Captain Healey reported "No pirates in Behring's Sea." The "Bear" delivered to this island the boat and fixtures complete asked for by me from the Department.

The Rev. Sheldon Jackson was passenger on board the "Bear," and came ashore and inspected the village and school-house; he received a copy of the School Report, and was well pleased with the condition in which he found things.

On the 31st July, in company with Mr. Tingle and Professor Elliott, I visited Otter Island, and found, to my surprise, that there were no seals hauled out, as was usual in the past.

The United States cutter "Richard Rush," Captain W. C. Coulson, arrived here on the 17th of July, and reported "no pirates in Behring's Sea." Professor H. W. Elliott, your recent appointee as Treasury Agent, has spent the season here, dividing his time between the two islands, and giving his entire attention to the state of the rookeries and the methods used at present in driving and killing the seals, and his Report will, no doubt, be of the utmost importance, and of great value to the Department.

Mr. William Palmer, a representative of the Smithsonian Institution, has, by your permission, spent the season on St. Paul collecting specimens of various birds and animals, and his incessant labours have been abundantly rewarded.

The merchantable seal-skins in the salt-houses on St. Paul and St. George Islands, taken from the seals killed for food for the natives during the winter of 1889-90, will be shipped as per instructions bearing date the 5th May, per United States cutter "Richard Rush," Captain W. C. Coulson commanding, which will leave here early in September, consigned to the Collector of Customs at San Francisco. The matter will be reported directly to you by Mr. Joseph Murray, who has charge of St. Paul Island for the coming winter. The accompanying communications from the representatives of the Alaska Commercial Company and the North American Commercial Company will fully explain my actions in the matter.

The total number of fur-seals killed and accepted upon this island by the lessees was 16,830, and the total amount earned by the natives and distributed to them was 6,783 dol. 30 c. Your instructions to me upon the subject of dividing the earnings of the natives, and looking after their welfare financially, I endeavoured to follow, but was prevented from doing so by Mr. George R. Tingle, general manager for the lessees. His reasons for so doing are inclosed.

I regret that I am compelled to report that the seals are rapidly diminishing in numbers, and to such an alarming extent that to check the decrease will require, in my opinion, the most careful consideration of the Department.

To have a correct understanding of how the annual catch is taken, it will be necessary to bear in mind the following facts: (1) By the Acts of Congress governing the seal fisheries the season opens on the 1st June and closes on the 31st July, unless otherwise restricted by the Secretary of the Treasury. (2) The bull seals arrive at the island between the 1st May and the 10th June, and the cows between the 10th June and the 10th July. (3) The large young seals, whose skins are merchantable, commence coming about the middle of May, gradually increasing in numbers as the cows appear, and with the large young seals come a small portion of the pups born the summer before; but the greatest majority of the yearlings put in their appearance in the month of July. Now, in opening the season it is customary to secure all the two-year-olds and upwards possible before the yearlings begin to fill up the hauling-grounds and mix with the killable seals. By so doing it is much easier to do the work, and the yearlings are not tortured by being driven and redriven to the killing-grounds. Heretofore it was seldom that more than 15 per cent. of all the seals driven the latter part of June and the first few days in July were too small to be killed, but this season the case was reversed, and in many instances 80 to 85 per cent. were turned away. The accompanying percentage examples will show the disposition of this year's drive. The first killing of fur-seals by the lessees was on the 6th June, and the scarcity of killable seals was apparent to all.

The season closed on the 20th July, and the drives in July show a decided
16 increase in the percentages of small seals turned away, and a decrease in the killables over the drives of June, demonstrating conclusively that there were but few killable seals arriving, and that the larger part of those returning to the islands were the pups of last year. The average daily killing for the season was 400, or a daily average of 522 including only the days worked.

In 1889 the average daily killing from the 1st June to the 20th July inclusive was 1,516, or a daily average of 1,974 including only the days worked. With this undeniable decrease in merchantable seals, and knowing the impoverished condition of the rookeries and hauling-grounds, and believing it to be inimical to the best interests of the Government to extend the time for killing beyond the 20th July, I adhered to the letter and spirit of your instructions to me, and closed the killing season on the 20th July, against the bitter protestations of Mr. George R. Tingle, General Manager for the lessees; his communication to me upon the subject and my reply are inclosed. Had there been a reasonable probability of the lessees securing their quota of 60,000 seals, I should have deemed it my duty to extend the time for killing to the 31st July.

The killing of the 6th June, the first of the season, was from the Reef Rookery, with drive of about 700 seals: the total killed, 116, 83½ per cent. being turned away as too small. On the 11th June, the drive was from the Reef Rookery, about 1,000: total killed, 574, 42½ per cent. turned away. On the 24th June the drive was from

the Reef Rookery and Zoltoi hauling-grounds combined, and about 1,417 were driven: total killed, 206, 85½ per cent. turned away. This exhausted Zoltoi hauling-grounds for a period of twenty-one days, and it was not available until the 19th July, when again, in connection with the Reef Rookery, the last drive was made, and about 3,956 seals were driven, 556 were killed, and 86 per cent. turned away. The seals turned away from the several drives invariably returned to the hauling-grounds and rookery from which they were driven only to be redriven to the killing-field, and culled of the few killables that chanced to join them upon their return to the sea from each drive. By referring to the Table marked (D), showing the daily killing for this year, and also comparing the same with that of last year, you will see that from all of the drives the same percentages were turned away as from those I have cited.

We opened the season by a drive from the Reef Rookery, and turned away 83½ per cent., when we should have turned away about 15 per cent. of the seals driven, and we closed the season by turning away 86 per cent., a fact which proves to every impartial mind that we were redriving the yearlings, and considering the number of skins obtained that it was impossible to secure the number allowed by the lease, that we were merely torturing the young seals, injuring the future life and vitality of the breeding rookeries to the detriment of the lessees, natives, and the Government.

On Sunday, 20th July, all the rookeries presenting any male seals were driven from English Bay, Middle Hill, Tolstoi, Lukannon, Keetavia, and Rocky Point, and about 4,620 seals were brought to the killing field; 780 were killed, and 83 per cent. were turned away. On the same day at North-east Point they killed 466, which, added to those taken at the other rookeries, makes a grand total of 1,246.

This, and the killing on the 19th July, are the only instances recorded during the season when the daily killing reached 1,000. Comparing the killings with those of the same dates last year, we find that on the 19th July, 1889, from South-west Bay hauling-grounds alone, 1,987 were killed, and on the 20th July, 1889, from the Reef Rookery and Zoltoi hauling-grounds 1,913 were killed, and never were there such percentages turned away during the entire season nor in any previous season, to my knowledge, as in that of 1890. It is true, however, that the Alaska Commercial Company could and did take smaller seals last season than the present lessees can take, because of the differences in the tax paid by them, yet there have been no two-year-olds of an average size turned away this season, they were all immediately clubbed to swell the season's catch, which is far below the number allowed for this year, a condition of affairs that will convey to the Department in language far more convincing than mine the fact that the seals are not here.

The North American Commercial Company's agent, Mr. George R. Tingle, used every effort to have the drives made so as to have no unnecessary loss of seal life, and he would have made the season a most successful one for the Company if the seals had returned to the rookeries as in the past.

It is evident that the many preying evils upon seal life—the killing of the seals in the Pacific Ocean along the Aleutian Islands, and as they come through the passes to the Behring's Sea, by the pirates in these waters, and the indiscriminate slaughter upon the islands, regardless of the future life of the breeding rookeries, have at last with their combined destructive power reduced these rookeries to their pres-
17 ent impoverished condition, and to such an unequal distribution of ages and sexes, that it is but a question of a few years, unless immediately attended to, before the seal family of the Pribylov group of islands will be a thing of the past. Notwithstanding the fact that the seals were looked upon as inexhaustible, and were officially reported to be increasing as late as 1888, the time has suddenly come when experiment and imagination must cease, and the truth be told.

Absolute protection is the only safeguard for the rookeries, and the only step to be taken with safety. The seal meat necessary for the natives' food is all that should be killed under existing circumstances. Much can be written on this subject, many theories may be advanced, all of which we have had for the past twenty years, to the evident loss of seal life; but the facts presented in the accompanying Tables demonstrate with mathematical certainty the fearful decrease of the seals; and here I will say I heartily concur with my worthy predecessor, Mr. George R. Tingle, who, in his official Report of 1887, used the following language:

"The Department cannot place too high an estimate on the value of this seal property, and the Government, I am sure, will not yield to any demands which would make it possible to accomplish the destruction of her seal rookeries and seal life, which under judicious management and protection by law may be perpetuated indefinitely."

There is but one authority upon seal life, especially the seals of the Pribylov Islands, and this is the work of Professor Henry W. Elliott, who surveyed these rookeries in 1872 and 1874, and his work was verified by Lieutenant Maynard, and I am satisfied was as near correct when made as was possible for man to chronicle, but to-day there is a marked contrast in the condition of now and then. On p. 54

of the Professor's monograph you will find he places the number of seals upon North-east Point Rookery at 1,200,000. Standing on a prominent elevation known as "Hutchinson's Hill," in the month of July, and facing the north, I had before me a sea margin of over 2 miles, turning and facing the south I had a sea margin of over 1 mile. I could view entire this once famous rookery, and it was simply impossible to realize there was ever such a moving mass of living animals as Professor Elliott describes; his estimate seems incredible. Yet his writings have never been refuted.

To-day there is not to be seen over 250,000 seals of all ages and sexes.

To the extreme south-west of the island is the Reef Rookery, reported to have (by Professor Elliott) 301,000 seals in 1874. It has not over 100,000 seals to-day. "Garbotch," the adjoining rookery, where the Professor says he stood on Old John Rock and saw "10,000 fighting bulls, I can stand and count every bull in sight. This rookery with the reef is an extending point running out into the sea sloping east and west with a large surface of tableland in the centre. This was once a parading or playing ground where the seals met as they came from the east and west sides; it was the resort of over 200,000 seals, now the resting-place for a few cows and pups and now and then a worn-out sleeping bull. The number now visiting these rookeries (the Reef and Garbotch) find ample room on the two slopes, without pushing back on the plateau above.

Zoltoi Sands, once a favourite hauling-ground for the bachelor seals, from where thousands have been driven and killed for their skins, is entirely deserted, only, however, a short time in advance of all the hauling-grounds and rookeries, if immediate steps are not taken by the Department to nurse and protect these rookeries. Tukannan, a rookery on the east side of the island, between the Reef and Polavania, the most picturesque seal grounds of them all, where the seals were wont to haul upon the cliffs and in the interstices between the rugged rocks for over half a mile on the sea frontage, a most inviting home for this mysterious pelagic family, where, in connection with Keetavia Rookery, with the same sea range, there were 335,000 of these animals, presents at present to the most careful estimate not over 75,000 seals.

Polavania Rookery, with 4,000 feet of sea margin, with a seal life of 300,000 in 1874; Tolstoi Rookery, with 3,000 feet of sea margin, with 225,000 seals in 1874; and Zapodine, with 5,880 feet of sea margin, with 441,000 seals in 1874, all present a most deplorable condition, and do not show over one-eighth of the seals as reported by Professor Elliott.

With these facts in view, I am convinced there will be a greater decrease in seal life next year than this, for it will not be in the power of human ingenuity to check the rapid advance towards extermination now going on in that length of time.

In conclusion, I respectfully suggest that there be no killing of fur-seals for their skins on these islands, nor in the waters of Behring's Sea, for an indefinite number of years, to be named by the Secretary of the Treasury, and let Nature take her course in replenishing the rookeries, and that the Department take the entire matter of protecting these rookeries under its immediate supervision, for I regard any other system of protection dangerous to the future of all interested. The limited number of seals killed this season by the lessees will, undoubtedly, leave the majority of the natives in absolute want, and their condition will appeal to the Department for aid. The amount distributed to the natives upon the Islands of St. Paul and St. George was 6,783 dol. 30 c. and 1,644 dol. 80 c. respectively. This will not be sufficient to provide them with the necessaries of life until the steamers return in the spring, especially so with the natives of the St. George Island.

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With this fact in view, I made the following arrangements with the North American Commercial Company, through their manager, Mr. George R. Tingle. The North American Commercial Company's resident agent, together with the Treasury Agent in charge, are to adjudge what supplies are positively needed for the support and maintenance of the natives; the Company receiving from the Treasury Agent a certificate that such supplies have been furnished, but said certificate merely to be accepted as a voucher of correctness. The matter to be adjusted in the future with the Department by the North American Commercial Company.

The Department will have to make some provision for the support and maintenance of these people, as their mode of making a living has been destroyed for the present, and their future is only what the charity of the Government will make it. There is utterly nothing here upon which they can depend for a livelihood, until the much-wished-for return of seals takes place, an event too far in the future to give even a promise of better times to these unfortunate people.

Respectfully yours,

(Signed) CHARLES J. GOFF,
Treasury Agent in charge of the Seal Islands.

Hon. WILLIAM WINDOM,
Secretary of the Treasury, Washington, D. C.

(B.)—*Report of Joseph Murray.*

OFFICE OF SPECIAL AGENT, TREASURY DEPARTMENT,
St. George Island, Alaska, July 31, 1890.

SIR: I have the honour to report that the health of the natives here has been unusually good during the past year, and is at present far better than any other time in many years. There is not a case of sickness on the island, excepting those of long standing, due to scrofula and other chronic diseases.

With one single exception all the workmen are well and hearty.

We had a full term of school from September until May, and under the care of the teacher, Dr. L. A. Noyes, it was as well conducted as any public school of its size in the country; but, after all, I find the children made next to no progress in acquiring the simplest rudiments of our language. It seems incredible, but it is true, that young men and women who have been to school here for seven years do not know how to speak or read a sentence of the English language. Looking over their shoulders as they write in their copy-books, and observing the ease with which they follow the head-lines, one would think they were making rapid progress, but ask any one of them to read what he or she has been writing, and they cannot do it.

It was long suspected that the older people secretly influenced the children against American schools, and encouraged them to learn the Russian language in preference to any other; but I find that they are just as ignorant of Russian as they are of English, and as backward in learning it.

There has been one day of each week devoted to the Russian school, which, in my opinion, has a bad effect upon the children in their attempt to master the English tongue, and I therefore respectfully suggest that the practice of teaching Russian to the school children be abolished. After a year's residence here, I am able to say that the people as a whole have conducted themselves very well indeed; not a loud, vulgar, or angry word has been spoken in my hearing or to my knowledge by a native man or woman on the Island of St. George. Not one case of drunkenness or drinking, nor anything approaching to it, has come to my knowledge. A case of wrong-doing by two white men, employés of the Alaska Commercial Company, compelled me and my assistant, Mr. A. P. Lond, to complain to Mr. Sloss, the President of the Company, who immediately removed and discharged the offenders. Excepting one instance, there has not been one word of complaint from any quarter.

The men who wintered in the service of the Alaska Commercial Company are all good and worthy, especially the agent, Mr. Daniel Webster, and the physician,
19 Dr. A. L. Noyes. I take pleasure in thus testifying to their worth, for I have found them to be upright and honourable at all times, in all their transactions with the natives, with whom they are deservedly very popular.

I have endeavoured to promote a more perfect sanitary system in the village, and I find it is not so hard, as was expected, to prevail on the people to adopt better methods, if one will be patient and treat them kindly.

It will be an impossibility, however, to do much toward establishing a sanitary system of value until we have better water and a more abundant supply than is possible under existing conditions.

The present supply of water for domestic purposes is obtained from a well into which the drainage of half the village finds its way, and the wonder to me is that the people are not constantly sick while they have to use such drinking water. There is a nice fresh-water lake within 2,000 feet of the village, and fully 50 feet higher, from which a constant and never-failing supply of good water can be taken if you can have 2,000 feet of 2-inch pipe and the necessary hydrant and fixings sent here.

A drain is the next essential to success, and one of 700 feet in length can be dug easily, and will suffice to carry all the dirt and offal of the village into the sea. It will be necessary to have 700 feet of 12-inch drain-pipe.

The total absence of water-closets on this island is a disgrace, and is beyond all question the cause of more immorality, disease, and death than all other things combined. That such a state of things has been allowed to exist for twenty years is a disgrace to our civilization, and I do hope you will insist on the present lessees or on the Department to have it altered at once.

The subject is so abominable I dare not write it in a public Report.

It is absolutely necessary, too, that at least six of the dwelling-houses be enlarged, as the families now occupying them have not room to live as human beings should. It may be true, as many assert, that under Russian rule the natives were not housed one-half so well as they are now; but such arguments are of no avail in a country like ours. When a family of seven persons, of all ages and sexes, are packed in a sleeping apartment measuring 10 by 10 feet they are not treated right, nor does our Government intend to have such things existing where it has jurisdiction.

The dwelling-houses are badly in need of repairs, and the attention of the local agent, Mr. Webster, has been called to their condition; but as he is to leave the

island this year, it may be necessary for you to mention it to the General Manager of the North American Commercial Company.

Mr. A. W. Lavender arrived on the 26th, and immediately entered upon his duties. On the 12th July the watchman reported a schooner in sight off Zapodine, and I armed the men and sent a squad to exposed rookeries, Mr. Lavender going to Zapodine with four men, the second chief and four men to East Rookery, and I went with four men to Starri-Arteel. We all watched until next morning without seeing an enemy. To facilitate the guarding of the rookeries it is necessary to have some sort of shelter for the watchmen; a small hut on each of the three rookeries would be sufficient, and they need not cost over 50 dollars each.

On Sunday, 11th May, the schooner "Alton" (Captain Worth), of San Francisco, touched at the island, and the captain came ashore and informed us of the new lease and new Company. On learning of the change the natives held several meetings, and afterwards came to the Government House to have my advice as to how they should act in case any material changes were made in their mode of working, government, or the amount of their pay.

The meeting was adjourned from time to time until they had thoroughly discussed the most important questions raised, and at the last meeting, held 23rd May, they unanimously declared that it was their firm belief and honest opinion that the seals had diminished and would continue to diminish from year to year, because all the male seals had been slaughtered without allowing any to grow to maturity for use on the breeding-ground.

I made a note of the suggestion on the journal that day, and I am now fully convinced by personal observation that it is only too true, and that the natives were correct in every particular.

In 1889 the full quota of 15,000 skins was obtained here, but I know now (what I did not understand then) that in order to fill the quota they lowered the standard towards the close of the season and killed hundreds of yearling seals, and took a greater number of small skins than ever before.

The first seals of this season appeared upon the hauling-ground on the 26th
20 April, and the first killing for food was on the 13th May. The killing season for skins opened on the 2nd June, and they killed seventy-one.

I inclose a full statement of all the killings of the season, from the 2nd June to the 20th July, inclusive, and you will observe that the greatest number killed at one killing—excepting those of the 19th and 20th July—was only 394, although the driving and killing were under the immediate supervision of Mr. Webster, who is admitted to be the most experienced and most careful sealer on the islands.

Until the 19th July, an attempt was made to keep to a standard of not less than 7-lb. skins, but when it was apparent beyond question that there were no large young seals on the hauling-ground, the standard was lowered and skins of 5-lbs. were taken wherever found. It was thus the last two killings were swelled to their present proportions.

For the whole season we obtained a total of 4,112 skins, against a total of 10,138 on the same date last year.

That the seals should have disappeared so rapidly since the Report of your predecessor in 1888 is so astounding that those who cannot see the rookeries and hauling-grounds for themselves may well be pardoned for doubting what is, I am sorry to say, only painful though it be to all who are interested, the whole truth must nevertheless be told, and that is that the seals have been steadily decreasing since 1880, and the days are passed and gone when they could be counted on the rookeries by the million. I have carefully examined the rookeries and hauling-grounds at Starri-Arteel north and east, and I find somewhat less than half the ground covered when compared with former years. I accompanied the natives when they went to make a drive from East Rookery, and we walked along the beach from Little East to East Rookery without finding one seal till we came to the breeding-grounds proper. Either Mr. Lavender or I was present at every killing made; we saw the numbers that we turned away, and we counted the skins of all that were killed, and we find that what is true of one rookery is true of them all—the seals are not on them.

Now that the seals have disappeared the natives are very much alarmed, and they anxiously inquire what will the Government do for them in their destitution. They have earned during the present season 1,644 dol. 90 c., which, I need scarcely add, will be entirely inadequate to supply food and clothing for a year for a population of ninety people. I never knew a people so attached to a church as these poor creatures, and now they are in great tribulation because they have no means to contribute to its support, nor to the support of the priest and his family. At one of their many meetings they requested me to write for them to the Russian-Greek Church Consistory at San Francisco, and appeal for aid for their priest and church until such times as the seal fisheries should recover and make them self-supporting. In justice to the priest, I may tell you that he was the first to say he should not have any share of the earnings of this season, and that he would not take any money from the people

until times mended, and that he could afford to pay; otherwise he should apply to the Consistory for a position in another locality.

I have endeavoured to impress upon them the fact that they are not to be abandoned to their fate; that the Government will not allow them to starve or suffer, but will take care of the people and of the rookeries until the rookeries are built up and fully replenished, when prosperity and happiness will return to the island once more.

All of which is most respectfully submitted.

(Signed) JOSEPH MURRAY,
First Assistant Agent, St. George Island.

Hon. CHARLES J. GOFF,
Agent in charge of Seal Island, Alaska.

(C.)—*Report of A. W. Lavender, Assistant Treasury Agent.*

OFFICE OF SPECIAL AGENT, TREASURY DEPARTMENT,
St. George Island, Behring's Sea, July 26, 1890.

SIR: I have the honour to make you the following Report of this season's sealing by the North American Commercial Company, and to offer such recommendations as in my judgment should be enforced by the Government for the protection of these rookeries during the next six or seven years; also to report to you the condition of the natives and their houses, and to ask that such repairs to their houses as are absolutely required be furnished as soon as possible; also to request of you in your Report to the Secretary of the Treasury to ask for 350 dollars for repairs to the Government House, and such other articles as I shall mention in this Report.

In accordance with your letter of the 20th instant, asking me to ship the 630 food skins in the United States Revenue Marine cutter "Rush," I will state that I have complied with the same, and inclose you a receipt signed by the Captain, a duplicate of the same I have in this office on file. I will also state there are twenty road skins here in the salt-house.

The killing of seals on this island was stopped on the 20th; a list of each number killed out of each drive I inclose also to you, and you will see that the last drive from North and Starri-Arteel Rookeries and also from Zapodine that there was a larger number of seals killed than from any other drive; this I will assure you was not owing to the greater number of large seals being driven at this time, but the standard weight of skins being reduced on that day from 7 to 5 lbs., and even less.

The writer was surprised when he first visited the rookeries to find no young bull seals upon them; this looked strange to him, and he began to look up the cause, and it occurred to him that the constant driving of young male seals and the killing of all the 2-, 3-, 4-, and 5-year-olds, that there were no young bulls left to go on the rookeries, and without young blood the fur-seal industry will be something of the past in a very few years.

The Government should take absolute control of these islands and permit no seal to be killed more than are needed by the natives for food for the next six or seven years, and then all the male seals driven should be killed, as it is my opinion that not over one-half ever go back upon the rookeries again. In this way there would be killed upon this island about 2,500 each year. These skins sold in the market would pay all the expenses of the island and furnish such supplies to the natives to keep them from want, and they would be as well satisfied as they are now under the management of the North American Commercial Company. Without something of this kind being done, the natives will soon have to move from these islands, for there will be nothing to keep them here.

The North American Commercial Company has landed and turned over to this officer 30 gross tons of coal for the use of the natives and ten barrels of salt salmon, and also state that there are 10 tons of coal in the coal-shed for the Government house.

Most all of the native houses need repairing; some need a new floor, others a new roof, and I would recommend that at least four of these houses be made larger by the addition of one more room.

The Government or Company, whichever has charge of this island, the next season should send at least 10,000 feet of siding and 10,000 feet of flooring on the first steamer that comes up in the spring; also 35,000 shingles, and nails enough to do the work.

The natives are in better health than they have been for the past year. I am not aware of there being a sick person on the island. Their sanitary condition is bad, and to each house there should be a small outbuilding, which they could use for a closet. Such a thing seems to be unknown here.

The repairs required by the Government House are as follows: The front platform needs rebuilding, and part of the roof needs shingling, and the whole roof to be painted; also the house needs painting and papering on the inside, and the fence repainting.

The articles required for the use of this Office are as follows:

One letter-press and book.
One bill file.
One letter file.
Paper and pens.
One carpet for Government House.
One platform scales.
One spring balance.

Respectfully yours,

(Signed) ALBERT W. LAVENDER,
Assistant Treasury Agent.

CHARLES J. GOFF, Esq.,
Treasury Agent in charge of Seal Islands.

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22 NORTH AMERICAN COMMERCIAL COMPANY,
St. Paul Island, Alaska, July 1, 1890.

SIR: As per request of I. Liebes, Esq., President North American Commercial Company, contained in his letter to me dated at San Francisco, 9th June, 1890, I hereby ask permission to kill and take for the use of said Company, for exhibition only, to be stuffed and set up, five specimen seals of different ages, including one cow and one young black pup.

I am, &c.

(Signed) GEORGE R. TINGLE,
Superintendent North American Commercial Company.

CHARLES J. GOFF, Esq.,
Treasury Agent in charge.

(Note in red ink.)—Consent orally given, and this letter copied in journal, p. 236, 8th July, 1890.

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23 (D.)—*Annual Statement of Fur-Seals killed on St. Paul Island, Alaska, during the year ending July 20, 1890.*

Date.	Rookery.	Number of Seals killed for Natives' Food.				Number of Seals killed by Lessees for Skins.					Aggregate.		
		Large Young Seals.	Skins accepted by Lessees.	Skins rejected.		Accepted.		Rejected.*			Skins accepted.	Skins rejected.	Total Seals killed.
				Under Size.	Cut.	Prime.	Second Class.	Under Size.	Cut.	Total.			
1890.													
May 28	South-west Bay	119	115	3	1	115	...	....	1	5	115	4	119
June 6	Reef	....	....	....	....	115	..	....	1	1	115	1	116
" 11	"	....	....	....	....	539	...	35	...	35	539	35	574
" 13	Tolstoi	....	....	....	....	181	1	....	....	....	182	....	182
" 16	Reef	....	....	....	....	315	...	1	1	2	315	2	317
" 17	North-east Point	....	....	....	....	16	...	....	....	....	16	....	16
" 17	Half-way Point	....	....	....	....	167	...	....	....	....	167	....	167
" 18	Tolstoi and Middle Hill	....	....	....	....	270	...	....	4	4	270	4	274
" 18	North-east Point	....	....	....	....	78	...	....	....	....	78	....	78
" 20	Reef and Lukannon	....	....	....	....	339	...	....	....	....	339	....	339
" 20	North-east Point	....	....	....	....	438	...	....	....	....	438	....	438
" 21	South-west Bay	....	....	....	....	290	...	....	2	2	290	2	292
" 21	North-east Point	....	....	....	....	96	...	....	....	....	96	....	96
" 23	English Bay and Lukannon	....	....	....	....	515	3	....	3	3	518	3	521
" 23	North-east Point	....	....	....	....	176	2	1	...	1	178	1	179
" 24	Reefs and Zoltoi	....	....	....	....	414	....	10	2	12	414	12	426
" 24	North-east Point	....	....	....	....	202	3	....	....	....	205	....	205
" 25	Half-way Point	....	....	....	....	263	...	3	...	3	263	3	266
" 25	North-east Point	....	....	....	....	164	2	....	....	....	166	....	166

* Rejected for other reasons, 156.

(D.)—*Annual statement of Fur-Seals killed on St. Paul Island, Alaska, etc.*—Cont'd.

Date.	Rookery.	Number of Seals killed for Natives' Food.				Number of Seals killed by Lessees for Skins.					Aggregate.		
		Large Young Seals.	Skins accepted by Lessees.	Skins rejected.		Accepted.		Rejected.			Skins accepted.	Skins rejected.	Total Seals killed.
				Under Size.	Cut.	Prime.	Second Class.	Under Size.	Cut.	Total.			
1890.													
June 26	South-west Bay	....	....	....	....	114	2	....	1	1	116	1	117
" 27	English Bay and Middle Hill	....	....	....	....	374	2	19	1	20	376	20	396
" 27	North-east Point	....	....	....	....	225	5	....	....	....	230	....	230
" 28	Reef	....	....	....	....	205	1	....	....	....	206	....	206
" 28	North-east Point	....	....	....	....	79	....	....	....	....	79	....	79
" 30	Tolstoi, English Bay, Middle Hill, and Keitavie	....	....	....	....	206	1	2	....	2	207	2	209
" 30	North-east Point	....	....	....	....	97	1	....	....	....	98	....	98
July 1	Reef	....	....	....	....	246	....	....	....	....	246	....	246
" 1	North-east Point	....	....	....	....	130	1	....	....	....	131	....	131
" 2	Half-way Point	....	....	....	....	240	....	....	2	2	240	2	242
" 2	North-east Point	....	....	....	....	96	....	....	....	....	96	....	96
" 3	South-west Bay	....	....	....	....	181	....	2	....	2	181	2	183
" 3	North-east Point	....	....	....	....	180	....	....	....	....	180	....	180
" 4	Tolstoi, English Bay, and Middle Hill	....	....	....	....	472	....	19	3	22	472	22	494
" 4	North-east Point	....	....	....	....	318	3	....	....	....	321	....	321
" 5	Reef	....	....	....	....	524	1	....	1	1	525	1	526
" 5	North-east Point	....	....	....	....	74	....	....	....	....	74	....	74
" 7	English Bay, Middle Hill, Tolstoi, Lukannon, and Ketavie	....	....	....	....	400	....	11	....	11	400	11	411
" 7	" " " "	....	....	....	....	400	....	11	....	11	400	11	411
" 7	North-east Point	....	....	....	....	336	....	....	....	....	336	....	336
" 8	Half-way Point	....	....	....	....	257	....	3	1	4	257	4	261
" 8	North-east Point	....	....	....	....	378	1	....	....	....	379	....	379
" 9	South-west Bay	....	....	....	....	160	2	1	....	1	162	1	163
" 9	North-east Point	....	....	....	....	271	....	....	....	....	271	....	271
" 10	Reef	....	....	....	....	373	1	2	2	4	374	4	378
" 10	North-east Point	....	....	....	....	112	....	....	....	....	112	....	112
" 12	English Bay, Middle Hill, Tolstoi, Lukannon, and Ketavie	....	....	....	....	624	5	4	....	4	629	4	633
" 12	Half-way Point	....	....	....	....	211	....	....	....	....	211	....	211
" 12	North-east Point	....	....	....	....	641	....	....	17	17	641	17	658
" 14	Reef	....	....	....	....	104	....	....	....	....	104	....	104
" 15	English Bay, Middle Hill, Tolstoi, Lukannon, and Ketavie	....	....	....	....	315	....	....	....	....	315	....	315
" 15	North-east Point	....	....	....	....	245	....	....	....	....	245	....	245
" 16	" "	....	....	....	....	311	....	1	....	1	311	1	312
" 17	Polavnia, Lukannon, and Ketavie	....	....	....	....	369	3	....	....	....	372	....	372
" 17	North-east Point	....	....	....	....	485	....	....	....	....	485	....	485
" 18	" "	....	....	....	....	405	....	....	....	....	405	....	405
" 18	Zapodine	....	....	....	....	80	....	....	....	156	80	156	236
" 19	Reef and Zoltoi	....	....	....	....	547	2	3	4	7	549	7	556
" 19	North-east Point	....	....	....	....	446	....	....	....	....	446	....	446
" 20	English Bay, Middle Hill, Tolstoi, Lukannon, Ketavie, and Point Rocky	....	....	....	....	752	6	18	4	....	758	22	780
" 20	North-east Point	....	....	....	....	507	2	47	....	....	509	47	556
	Total	119	115	3	1	16,783	50	185	50	344	16,833	391	17,724

24 *Table showing disposition of the rejected Skins of 1890, which I refuse to destroy.*

Total number of skins rejected	3
July 10, accepted by lessees at North-east Point	22
" 20, " " " " "	43
" 20, accepted by lessees at village	34
Now in salt at North-east Point	47
Now in salt at village	2
Received by North American Commercial Company to make suits for three employés who are to winter on St. Matthew's Islands establishing a trading station for said Company	41
Professor William Palmer, of the Smithsonian Institution	4
Spoiled on the field	156
Given to the natives	42
	3

The North American Commercial Company asks for five specimens for exhibitio as per accompanying letter, and reported killing one cow, one pup, one bull, larg three males of different ages; total, six.

(E.)—*Annual Statement of Fur-Seals killed on St. George Island, Alaska, during the yea ending July 20, 1890.*

Date.	Rookery.	Number of Seals killed by Lessees for Skins.				Aggregate.		
		Accepted.		Rejected for other reasons. Died on the road.	Total.	Skins accepted.	Skins rejected.	Total Seals killed
		Prime.	Second Class.					
1890.								
June 2	North	71	.....	.....	71	71	.....	
" 16	East	214	4	.....	218	218	.....	
" 18	North	113	4	.....	118	117	1	
" 19	East and Little East	179	2	.....	181	181	.....	
" 20	Zapodine	394	.....	.....	394	394	.....	
" 23	Starri-Arteel and North	162	2	.....	164	164	.....	
" 25	East and Little East	182	2	.....	184	184	.....	
" 28	Starri-Arteel and North	188	1	.....	189	189	.....	
" 30	Zapodine	189	.....	.....	189	189	.....	
July 1	East and Little East	145	.....	4	149	145	4	
" 3	Starri-Arteel and North	234	.....	4	238	234	4	
" 5	East and Little East	56	1	.....	57	57	.....	
" 7	Zapodine	57	.....	1	58	57	1	
" 8	East and Little East	23	.....	1	24	23	1	
" 9	Starri-Arteel and North	183	3	7	193	186	7	
" 11	East	59	.....	1	60	59	1	
" 12	Starri-Arteel and North	102	.....	1	103	102	1	
" 14	Zapodine	53	.....	.....	53	53	.....	
" 15	East	131	.....	1	132	131	1	
" 16	Starri-Arteel and North	119	.....	.....	119	119	.....	
" 18	East	71	.....	.....	71	71	.....	
" 20	Starri-Arteel and North	634	7	.....	641	641	.....	
" 20	Zapodine	527	.....	.....	527	527	.....	
	Total	4,086	.....	21	4,133	4,112	21	

NOTE.—One rejected skin was given to the Chief, and the remaining twenty were salted down in salt-house till further orders.

(Signed) JOSEPH MURRAY, *First Assistant Agent*

WASHINGTON, D. C., *May 5, 189*

Should any doubt arise concerning pups' skins, claimed by Alaska Commer Company, under instructions to Agent Nettleton of the 11th March last, you w cause all such skins, together with the merchantable skins specified in your instru

tions of the 26th March last, to be shipped to Collector at San Francisco, and thereupon report facts to Department for determination.

(Signed) GEO. C. TICHENOR, *Assistant Secretary.*

CHARLES J. GOFF,
Treasury Agent, Seal Islands,
(Care Collector of Customs, San Francisco, California).

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25 ALASKA COMMERCIAL COMPANY OF SAN FRANCISCO,
St. George Island, Alaska, May 26, 1890.

SIR: Herewith I would ask permission to ship, per steamer "Dora," 482 fur-seals, at present stored at our village salt-house, and 109 at our salt-house at Zapadiue.

These 591 fur-seals were killed by the natives for food during the winter 1889 to 1890, and have been salted and cared for by the Alaska Commercial Company before the transfer of its property to the North American Commercial Company, the present holders of the lease for the Seal Islands.

I have, &c.

(Signed) RUDOLPH NEUMANN,
General Agent, Alaska Commercial Company.

Hon. CHARLES J. GOFF,
United States Treasury Agent in charge of the Seal Islands St. Paul and St. George.

ALASKA COMMERCIAL COMPANY OF SAN FRANCISCO,
St. Paul Island, Alaska, May 31, 1890.

SIR: Herewith I would ask permission to ship, per steamer "Dora," 3,196 fur-seals, 794 stagy skins being included in this number, and stored at present at our village salt-house, and 298 at our salt-house at North-east Point.

These 3,494 fur-skins were killed by the natives for food during the winter of 1889 to 1890, and have been salted and cared for by the Alaska Commercial Company before the transfer of its property to the North American Commercial Company, the present holders of the lease for the Seal Islands.

I have, &c.

(Signed) RUDOLPH NEUMANN,
General Agent, Alaska Commercial Company.

Hon. CHARLES J. GOFF,
United States Treasury Agent in charge of the Seal Islands St. Paul and St. George.

SIR: In reply to your communications bearing date the 26th and 31st May, respectively, asking permission to remove the fur-seal skins now in the salt-houses on St. Paul and St. George Islands, I will say, in pursuance to instructions received by me from the Secretary of the Treasury, I will have to respectfully decline to allow you to remove the skins in question, and herewith inform you that all of the said skins will be shipped per United States cutter, care Collector of Customs, San Francisco, California, to be disposed of by the Department as the Secretary may deem advisable.

(Signed) CHARLES J. GOFF, *Treasury Agent.*

Hon. RUDOLPH NEUMANN,
General Agent, Alaska Commercial Company.

NORTH AMERICAN COMMERCIAL COMPANY,
St. Paul Island, July 8, 1890.

DEAR SIR: The North American Commercial Company will accept as part of their quota of 60,000 seal-skins for 1890 such of the food skins of 1889 as they may find on examination to be merchantable and acceptable to them.

The skins being now stored in our warehouses on this and St. George Island, we hereby claim the privilege of availing ourselves of the offer made us by the Honourable Secretary of the Treasury at Washington, as contained in and being a part of his instructions to you dated the 26th March, 1890, a copy of which by his request you were kind enough to furnish the Company, which instructions in our opinion were not changed by any subsequent order made by the Honourable Secretary, so far as our right to accept food skins is concerned. If the food skins claimed by us

should not be delivered to us here so as to enable us to ship them with the Company's skins taken under their lease this season, we could not get them in
26 London in time for our fall sale, were they tendered the Company at San Francisco after the cutter's arrival from Alaska in the fall. Being thus deprived of the skins, a heavy loss to the Company in prospective profits would result, which loss we would feel should be made good to us by the Government of the United States.

I respectfully request you to communicate to me in writing the result of your conclusions in the matter.

I am, &c.

(Signed) GEORGE R. TINGLE,
Superintendent, North American Commercial Company.

CHARLES J. GOFF,
Treasury Agent in charge of Seal Fisheries, St. Paul Island, Alaska.

OFFICE OF SPECIAL AGENT, TREASURY DEPARTMENT,
St. Paul Island, July 8, 1890.

DEAR SIR: Your communication of later date, in which you ask permission to assort and examine the skins of the seals killed for food during the winter of 1889 and 1890, and to take such as you may adjudge acceptable to your Company as part of your season's catch for this year, has been carefully considered and your request respectfully declined, as I have no option in the matter other than to strictly obey the orders of the Secretary of the Treasury.

I avail myself of this opportunity to notify you that on and after the 20th July I shall require you to conform to that clause in my instructions which prevents killing of fur-seals for their skins after that date.

Respectfully yours,

(Signed) CHARLES J. GOFF, *Treasury Agent.*

GEORGE R. TINGLE, Esq.,
General Manager, North American Commercial Company.

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27 (F.)—*Annual Statement of Fur-Seals killed for Food on St. Paul Island, Alaska during the year ending May 21, 1890.*

Date.	Rookery.	Seals killed for Native Food.						
		Pups.	Large Young Seals.	Total.	Skins accepted by Lessees.	Skins rejected.		
						Under Size.	Stagy.	Cut.
1889.								
July 31	Zoltoi	.....	160	160	156	.....	.....	4
Aug. 6	Lukannon	.....	163	163	163	.....	.....	.....
" 11	Balance over shipment in salt-house	.....	58	58	58	.....	.....	.....
" 14	Zoltoi	.....	131	131	123	3	.....	5
" 22	"	.....	141	141	139	.....	.....	2
" 31	Tolstoi	.....	179	179	87	1	91	.....
Sept. 9	Zoltoi	.....	141	141	.....	.....	141	.....
" 18	"	.....	110	110	.....	.....	110	.....
" 25	"	.....	107	107	.....	1	106	.....
Oct. 5	"	.....	120	120	.....	1	119	.....
" 15	"	.....	103	103	.....	4	99	.....
" 26	Lukannon	.....	132	132	44	2	86	.....
Nov. 4	Zoltoi	1,044	125	125	80	3	42	.....
" 19	Tolstoi	1,236	224	224	223	1	.....	.....
" 21	Reef	.....	347	347	347	.....	.....	.....
" 27	"	.....	192	192	189	3	.....	.....
" 27	Zapodine	.....	10	10	10	.....	.....	.....
" 30	Reef	.....	240	240	236	4	.....	.....
Dec. 11	Zapodine	.....	243	243	240	3	.....	.....
1890.								
Jan. 27	Sea Lion Rock	.....	175	175	170	5	.....	.....
May 21	.....	.....	131	131	131	.....	.....	.....
		2,280	3,232	3,232	2,396	31	794	11
	Skins at North-east Point, killed for watchmen	.....	301	.....	.....	.....	.....	.....
	Grand total of food skins	.....	3,533*	.....	.....	.....	.....	.....

*These skins will be shipped on board United States cutter "Richard Rush," and consigned to Collector of Customs, San Francisco, as per your instructions bearing date May 5, 1890. The steamer will leave the Seal Islands early in September.

(F.)—*Annual Statement of Fur-Seals killed for Food on St. Paul Island, etc.*—Cont'd.

Date.	Rookery.	Seals killed for Native Food.						
		Pups.	Large Young Seals.	Total.	Skins accepted by Lessees.	Skins rejected.		
						Under Size.	Stagy.	Cut.
1889.								
Aug. 10	North		55					
" 19	"		56					
" 20	"		48				48	
Sept. 7	East		64				64	
" 21	"		50				50	
" 29	North		33				33	
Oct. 11	"		37				37	
" 21	Starri-Arteel		32					
" 31	North		4					
Nov. 6	"	600	6					
" 12	"	471	6					
" 25	Starri-Arteel		61					
May 13	North		32					
" 31	"		37					
	For the watchmen at Zapodine for the whole season		109					
	Total	1,071	630*				232	

*These skins (630) will be shipped on board United States cutter "Richard Rush," and consigned to Collector of Customs, San Francisco, as per your instructions bearing date May 5, 1890. The steamer will leave the Seal Islands early in September.

28 (G.)—*Table showing the killing of Fur-Seals on St. Paul Island up to July 20, 1889, by the Alaska Commercial Company, and up to July 20, 1890, by the North American Commercial Company; also Daily Weather Report from June 1 to July 31 of each Year.*

VILLAGE.

Date.	Number killed.	Date.	Number killed.
1889—		1890—	
June 5	201	June 6	116
" 10	120	" 11	574
" 12	947	" 13	182
" 14	762	" 16	317
" 15	340	" 17	167
" 17	895	" 18	274
" 18	1,161	" 20	339
" 19	1,561	" 21	292
" 20	253	" 23	521
" 22	1,353	" 24	426
" 24	2,578	" 25	266
" 25	979	" 26	117
" 26	1,314	" 27	396
" 27	311	" 28	206
" 28	1,349	" 30	209
" 29	1,038		
Total	15,162	Total	4,402
July 1	1,023	July 1	246
" 2	834	" 2	242
" 3	1,841	" 3	183
" 4	1,716	" 4	494
" 5	1,255	" 5	526
" 6	1,302	" 7	411
" 8	814	" 8	261
" 9	1,314	" 9	163
" 10	654	" 10	378
" 12	2,004	" 12	633
" 13	1,006	" 13	211
" 15	3,085	" 14	104
" 16	1,911	" 15	315
" 17	1,931	" 17	372
" 18	2,046	" 18	236
" 19	2,017	" 19	556
" 20	1,913	" 20	780
Total	6,666	Total	6,111

(G.)—*Table showing the killing of Fur-Seals on St. Paul Island, etc.*—Continued.

29 NORTH-EAST POINT.

Date.	Number killed.	Date.	Number killed.
1889—		1890—	
June 17	1,054	June 17	16
" 18	1,270	" 18	78
" 19	494	" 20	438
" 21	1,205	" 21	96
" 24	754	" 23	179
" 25	1,407	" 24	205
" 26	441	" 25	166
" 27	844	" 27	220
" 28	479	" 28	79
" 29	355	" 30	98
July 1	1,200	July 1	131
" 2	968	" 2	96
" 4	1,559	" 3	180
" 5	1,524	" 4	321
" 6	376	" 5	74
" 8	914	" 7	336
" 9	641	" 8	379
" 10	800	" 9	271
" 13	793	" 10	112
" 15	1,838	" 13	658
" 16	1,156	" 15	245
" 17	948	" 16	312
" 18	1,282	" 17	485
" 19	834	" 18	405
" *20	243	" 19	446
		" 20	556
Total	15,076	Total	5,007

* 243 this day to make the full quota of 100,000.

RECAPITULATION.

Total number of fur-seals killed by lessees on St. Paul Island from 1st June to 20th July—

1889	65,187
1890	17,105

Day of Month.	June 1889.			July 1889.			June 1890.			July 1890.		
	Max.	Min.	Weather.	Max.	Min.	Weather.	Max.	Min.	Weather.	Max.	Min.	Weather.
1	42	33	Foggy	45	40	Clear	37	33	Snow	40	40	Fog.
2	40	35	Cloudy	48	40	Hazy	34	32	Hazy	48	40	"
3	44	38	"	48	42	"	41	33	Clear	46	40	Clear.
4	48	40	"	48	41	Clear	42	31	Fine	47	39	"
5	47	39	"	49	40	Hazy	42	32	Clear	50	40	"
6	50	34	"	42	40	"	43	31	Fog	51	40	"
7	44	43	"	49	42	Thick fog	44	38	Hazy	51	41	"
8	47	36	"	50	40	Rain	48	39	Rain	44	40	"
9	No record.		"	45	42	Hazy	43	39	Thick fog	46	41	Hazy.
10	44	38	Rain	49	42	Thick fog	44	34	"	47	42	"
11	43	40	"	51	41	Fog	43	37	"	48	43	Fog.
12	43	38	"	50	42	Clear	42	37	Fog	51	41	"
13	38	37	"	50	40	"	43	37	"	48	43	"
14	43	37	"	49	40	"	43	38	"	44	43	Rain.
15	42	37	Thick fog	52	42	"	48	39	Rain	45	43	Fog.
16	43	37	Rain	50	42	"	43	36	Fog	44	41	"
17	46	38	Cloudy	47	43	Hazy	45	37	Rain	47	42	"
18	49	38	Rain	48	42	"	44	37	Clear	47	42	"
19	49	36	Clear	52	42	Fog	40	37	Fog	50	40	"
20	45	37	Cloudy	49	41	Clear	43	39	Fine	49	40	"
21	46	38	"	49	43	Thick fog	45	40	Rain	54	44	"
22	45	38	"	50	44	Rain	49	40	Clear	56	43	"
23	40	38	Rain	48	42	Hazy	49	39	Hazy	53	45	"
24	42	39	Thick fog	46	42	Fog	42	38	Fog	52	46	"
25	46	40	"	50	42	Hazy	45	40	"	52	45	"
26	49	40	Cloudy	44	44	Thick fog	42	38	"	53	43	"
27	51	41	Clear	49	43	Hazy	44	39	"	53	46	"
28	50	41	"	48	43	Rain	44	38	Hazy	49	45	"
29	50	40	Cloudy	48	42	Fog	43	40	"	48	44	"
30	50	40	"	50	43	Hazy	42	39	"	48	40	"
31				49	42	Fog				51	45	"

30 (H.)—*Table showing the beginning of each Sealing Season on the Islands of St. Paul and St. George, from 1870 to 1890 inclusive, and the number of Fur-Seals accepted by the Lessees up to July 20 of each year.*

[Taken by Alaska Commercial Company.]

Year.	St. Paul.		St. George.		Total Skins accepted.
	Season began—	Skins accepted.	Season began—	Skins accepted.	
1870*					
1871	June 1	29,788	June 4	12,604	42,392
1872	" 1	65,499	" 3	21,563	87,062
1873	" 3	68,035	" 4	17,362	85,397
1874	" 3	88,058	" 1	8,554	96,612
1875	" 1	83,890	" 1	10,000	93,890
1876	" 3	69,367	" 1	10,000	79,367
1877	" 4	58,732	" 1	15,000	73,732
1878	" 3	78,570	" 10	16,709	95,279
1879	" 2	80,572	" 3	20,569	†101,141
1880	" 1	80,000	" 3	20,000	100,000
1881	" 6	80,000	" 9	20,000	100,000
1882	" 2	80,000	" 6	20,000	100,000
1883	" 4	60,101	" 4	11,123	71,224
1884	" 3	83,092	" 4	11,152	94,244
1885	" 3	70,451	" 1	15,000	85,451
1886	" 4	72,120	" 8	13,335	85,455
1887	" 1	77,389	" 9	13,381	90,770
1888	" 2	73,808	" 6	13,187	86,995
1889	" 1	68,485	" 4	10,138	78,623
1890	" 6	‡16,833	" 2	‡4,112	‡20,945

* No Record. † Accepted but not shipped in one year; balance carried over.
‡ Taken by North American Commercial Company.

(I.)—*Statement of Liabilities of the North American Commercial Company to the Natives of St. Paul Island, after the division and distribution of 1890, showing the Amount due to each individual on the 1st August.*

Name.	Amount.	Name.	Amount.
Artomonoff, Kerrick	$182.37	Oustigoff, Peter	$193.24
Ashoff, Areeny	153.85	Pushinkoff, Peter, estate of	68.05
Burdukofsky, Apollon	196.04	Prokopuf, Vladimer	331.25
Butrin, Kerrick	207.42	Paraushin, Daniel	186.04
Bogadanoff, Nicoli	155.22	Pankoff, Parfiri	185.04
Butrin, Korp	228.19	Popoff, Afanasia	66.00
Bellagiazoff, Ellen	65.00	Mandrigan, Nevu	178.49
Emanoff, George	220.42	Melovidoff, Alex	271.40
Fratis, John	172.37	Popoff, Nodotia	28.74
Gromoff, Nicoli	229.04	Rookarishnakoff, Zachar	189.04
Glotof, John	158.85	Rezanzoff, Anna	122.00
Galaktanoff, Alex	163.92	Stepeteni, Terrenti, estate of	257.85
Haberoff, Paul	145.78	Stepeteni, Dorafay	437.22
Hapoff, John, estate of	67.05	Sidiek, Theodore	196.04
Housen, Alex	218.97	Sedule, Vasila	190.42
Kozerof, Stepan	186.04	Shabolin, Necon	145.85
Kushin, Aggie	175.24	Stepetini, Elarey	274.04
Kootchuten, Jacob	182.04	Shutyagan, Metzofan	155.85
Krukoff, Nicoli	188.79	Shaishinkoff, Rev. Paul	158.19
Krukoff, Maxim	166.65	Saroken, John	20.74
Krukoff, Peter	259.04	Shapashinkoff, Agnfay	64.70
Kusintzoff, John	81.27	Shabolia, Ceaser, estate of	116.13
Kusheorsshoff, Eupheme	193.19	Shaishinkoff, Valerian	165.09
Kootchuten, George	217.04	31 Shaishinkoff, Matrona	150.10
Kootchuten, John	148.22	Shaishinkoff, George	157.09
Kootchuten, Empheine	165.42	Shane, Catherine	17.68
Kozeroff, Paul, estate of	302.85	Tarrakanoff, Kerrick	179.04
Kusnitzoff, Pemin, estate of	735.30	Tetof, Peter	192.04
Krukof, Natalia	37.00	Tetof, Nevu	132.85
Kozeloff, Parascovia	7.50	Tetof, Fedosia	64.68
Merculiff, Alex	79.10	Terrustara, Anna	145.00
Melovidoff, Antone	415.59	Volkoff, Markel	142.37
Melovidoff, Simeon	714.74	Volkoff, Ellen	158.08
Melovidoff, Mrs. A	203.85	Yetzamauff, John, estate of	236.23
Merculiff, Dorafay	103.00	Zaharaoff, Kereaka	66.00
Mandregan, Ustenia	60.00	Widows' fund	179.00
Merculiff, Auxinsa	27.74		
Nederasoff, Stepan	188.19		13,378.90
Nederasoff, Martin	175.04		

(I.)—*Statement of Liabilities of the North American Commercial Company, etc.*—Cont'd.

Name.	Amount.	Name.	Amount.
Bank Account drawing 4 per cent.		*Bank Account drawing 4 per cent*—Continued.	
John Fratis	$1,438.30	Nedesda Shaishinkoff	$165.09
Rev. Paul Shaishinkoff	3,341.74	Kerrick Arlamanoff	2,281.09
Catherine Shutyagara	224.75	Kerrick Butesin	2,948.33
Markel Volkoff	983.68		
Ellen Volkoff	200.00		11,884.94
Ardotia Sediek	104.17		
Elizabeth Sediek	93.61		
Zashar Sediek	104.18	Total	25,263.84

NOTE.—From the North American Commercial Company ten widows receive weekly rations, and others will have to be added soon.

List of Accounts transferred to the North American Commercial Company by the Alaska Commercial Company for Natives of St. Paul Island, May 24, 1890.

Name.	Occupation or Condition.	Amount.
Peter Krukoff	Sealer	$192.85
Nicoli Krukoff	"	80.60
Maxim Krukoff	"	111.73
Estate of Pemin Koznelzoff (for minor heirs)		735.30
Aggie Kushin	Sealer	67.05
John Koznelzoff	"	32.17
Natalia Krukoff	Widow	57.60
Parascovia Kozeroff	"	43.50
Neon Mandregan	Sealer	90.30
Vasili Sedule	"	98.05
Testeuria Mandregan	Widow	81.90
Antone Melevidoff	Sealer	172.80
Simeon Melevidoff	"	60.[illegible]
Alex Melevidoff	"	223.[illegible]
Anexenia Merculiff	Widow	10[illegible]
Alexander Merculiff	Sealer	2[illegible]
Akoolena Nedarazoff	Widow	2[illegible]
Martin Nederazoff	Sealer	6[illegible]
Daniel Parauchin	"	7[illegible]
Barbara Pohomoff	Widow	[illegible]
Parfaria Paukoff	Sealer	7[illegible]
Vassilisia Peeshinkoff	Widow	7[illegible]
Afanasia Popoff	"	7[illegible]
Ardotia Popoff	"	5[illegible]
Zachar Rookoorahinkoff	Sealer	8[illegible]
Anna Rezauzoff	Widow	12[illegible]
Agafy Shaposhinkoff	Minor	79[illegible]
Theodore Sedisk	Sealer	87[illegible]
Metrofan Shutyagin	"	[illegible]
Rev. Paul Shaishinkoff	Priest	12[illegible]
Agrafina Shabolin	Widow	140[illegible]
Neon Shabolin	Sealer	69[illegible]
Elarcy Stepetin	"	16[illegible]
Marina Stepetin	Widow	25[illegible]
Dorafay Stepetin	Sealer	37[illegible]
Valician Shaishinkoff	Minor	165[illegible]
Matrona Shaishinkoff	"	16[illegible]
George Shaishinkoff	"	15[illegible]
Catherine Shane	Widow	47[illegible]
Kerrick Tarrakanoff	Sealer	70[illegible]
Fedosia Tetoff	Widow	110[illegible]
Peter Tetoff	Sealer	8[illegible]
Neon Tetoff	"	76[illegible]
Anna Yarantova	Widow	150[illegible]
Markel Volkoff	Sealer	50[illegible]
32 Estate of John Yatzaamauff, held for minor heirs		276[illegible]
Martha Saroken	Widow	20[illegible]
Mrs. Alex. Melevidoff	"	22[illegible]
Ellen Volkoff	Unmarried	2[illegible]
Alex. Merculiff	Sealer	4[illegible]
Fedosia Koshronikoff		1[illegible]
Kerrick Artamanoff	Sealer	7[illegible]
Arseney Arkashoff	"	[illegible]
Peter Oustegoff	"	[illegible]
Kerrick Butesin	"	1[illegible]
Apollon Bourdeakofsky	"	[illegible]
Nicoli Bogodaniff	"	[illegible]
Ellen Belaglazoff	Widow	[illegible]

Accounts transferred to the North American Commercial Company, etc.—Cont'd.

Name.	Occupation or Condition.	Amount.
Emanoff	Sealer	$128.05
atis	"	135.55
romoff	"	135.85
ar Prokopuff	"	302.52
lotoff	"	82.29
iberoff	"	75.05
Hopoff	Widow	75.05
ansen	Sealer	114.40
itchooten	"	87.49
atchooten	"	73.85
ie Katchooten	"	73.05
Katchooten	"	113.85
Kozeroff	"	77.85
a Zacharoff	Widow	93.00
utesin	Sealer	113.85
Nedarazoff	"	83.85
ie Koshroenkoff	"	86.85
		8,870.73
On Special Deposit at 4 per cent. per annum.		
: Artamanoff	Sealer	2,281.09
: Butesin	"	2,948.33
ratis	"	1,525.00
ul Shaishinkoff	Priest	3,341.74
ne Shutvagin	Widow	227.05
Volkoff	Sealer	983.68
olkoff	Unmarried	343.08
Sedick	Minor	104.17
th Sedick	"	93.61
Sedick	"	104.18
a Shaishinkoff	"	165.09
		12,117.02
otal		20,987.75

Distribution of Proceeds from Fur-Seals taken on St. Paul Island, 1890.

t 1, 1890—	
,777 seal-skins, at 40 cents	$6,710.80
seal-skins, cut, at 20 cents	10.60
6 seal-skins, rejected	62.40
sea-lion skins, at 1 dollar	40.00
Less provisions at N. E. Point	40.50
Total	6,783.30

FIRST CLASS.

v. Paul Shaishmkoff, priest	158.19
tone Melevidoff, first chief	158.19
rp Buterin, second chief	158.19
cob Kooehuten	158.19
orge Kooehuten	158.19
eo. Sedick	158.19
gie Cushing	158.19
rtin Nedarazoff	158.19
9. Stepan Kozeroff	158.19
10. Neon Mandregan	158.19
11. Peter Krukoff	158.19
coli Krukoff	158.19
rrick Tarrakanoff	158.19
niel Paranchin	158.19
ollon Burdukoffsky	158.19
char Rookarishmkoff	158.19
pheme Kushirmkoff	158.19
epan Nedarazoff	158.19
rfiri Ponkoff	158.19

20.	Nicoli Gromoff	$
21.	Elarey Stepetein	
22.	Peter Tetoff	
23.	Peter Onstigoff	
	Total	3,

SECOND CLASS.

1.	Simeon Melevidoff	
2.	George Emenoff	
3.	Markel Volkoff	
4.	Kerrick Arlemnonoff	
5.	Kerrick Buterin	
6.	Vasili Sedule	
7.	Eupheme Koochuten	
8.	John Fratis	
	Total	1,

THIRD CLASS.

1.	Metrofan Shntyogan	
2.	Arseney Arkoshoff	
3.	John Glotoff	
4.	Necon Shobolin	
5.	Alex. Hanson	
6.	Neon Tetof	
	Total	

FOURTH CLASS.

1.	Darofay Stepetein	
2.	John Koolchutin	
3.	Nicoli Bogodanoff	
4.	Vladimer Prokopeiff	
5.	Paul Haberoff	
	Total	

FIFTH CLASS.

1.	Maxim Krukoff	
2.	Alex. Golaktonoff	
3.	Alex. Melevidoff	
	Total	

SIXTH CLASS.

1.	Alex. Merculiff	
2.	John Kuznitzoff	
	Total	

SPECIAL CLASS.

	Antone Melovidoff, first chief	
	Karp Buterin, second chief	
	Mrs. Terrinti Stepetein	
	Mrs. Peter Peeshenkoff	
	Mrs. John Hopoff	
	Total	

le showing Distribution of Earnings on St. Paul Island for taking Fur-Seals in 1889.

	Amount.
FIRST CLASS.	
terin, Karp, second chief	$627.85
lehooten, Jacob	627.85
lehooten, George	627.85
lick, Theodore	627.85
ptine, Terrentis	627.85
itpin, Terlampy	627.85
ahin, Aggie	627.85
derazoff, Martini	627.85
lovidoff, Antone, first chief	627.85
seroff, Paul	627.85
seroff, Stepan	627.85
ndrigin, Neon	627.85
ukoff, Peter	627.85
ukoff, Nicoli	627.85
rakanoff, Kerrick	627.85
ranchin, Daniel	627.85
urderkofsky, Apollon	627.85
okareshinkoff, Zachar	627.85
shinkoff, Eupheme	627.85
darazoff, Stepan	627.85
itis, John	627.85
ukoff, Porfiri	627.85
petin, Elary	627.85
lorsdoff, Simeon	627.85
toff, Peter	627.85
omoff, Nicoli	627.85
SECOND CLASS.	
lkoff, Markel	565.05
tomonoff, Kiriek	565.05
terin, Kerrick	565.05
eshinkoff, Peter	565.05
keroff, Paul	565.05
dule, Vassiley	565.05
lehooten, Eupheme	565.05
poff, John	565.05
anoff, George	565.05
stigoff, Peter	565.05
THIRD CLASS.	
utyagin, Metrofan	502.29
kashoff, Arseny	502.29
toff, John	502.29
balin, Necon	502.29
nasen, Alexander	502.29
toff, Neon	502.29
FOURTH CLASS.	
petin, Darofay	439.49
tchooten, John	439.49
gdanoff, Nicoli	439.49
kopieff, Vladimer	439.49
FIFTH CLASS.	
ukoff, Maxim	376.73
lakinoff, Alexander	376.73
lovidoff, Alexander	376.73
SIXTH CLASS.	
ishukoff, Alexander	251.17
rculliff, Alexander	251.17
nitzoff, John	251.17
SPECIAL CLASS.	
ishmkoff, Paul (priest)	1,000.00
o chiefs, each 100 dollars	200.00
ate of C. Shabolin	250.00
ate of A. Galkin	250.00
dows' fund	2,000.00
Total	32,330.00

Table showing Distribution of Earnings on St. Paul Island, etc.—Continued.

35 RECAPITULATION.

83,724 seal-skins, at 40 cents		$33,489 60
1,276 seal-skins (cut), at 20 cents		255.20
25 sea-lion skins, at 60 cents		15.00
		33,759.80
Less, for provisions to N. E. P	$129.80	
	1,300.00	
		1,429.80
Total		32,330.00
Those in the first class should have received 234 dollars, leaving to their credit		171.00
Those in the second class should have received 208 dollars, leaving to their credit		152.00
Those in the third class should have received 182 dollars, leaving to their credit		133.00
Those in the fourth class should have received 150 dollars, leaving to their credit		144.00
Those in the fifth class should have received 143 dollars, leaving to their credit		132.00
Those in the seventh class should have received 104 dollars, leaving to their credit		96.00

If the accompanying instructions of the Treasury agent in charge had been complied with, the natives would have been in circumstances, financially, to meet their unfortunate, but not unexpected, condition, as is clearly shown by the amounts which should have been to their credit.

DR. ACCOUNT CURRENT. CR.

(J.)—*The North American Commercial Company in account with the United States at St. Paul Island, Alaska.*

May 24, 1890—	
To oil fund transferred by Alaska Commercial Company	$124.87
To natives general fund	182.55

DR. ACCOUNT CURRENT. CR.

(K.)—*The North American Commercial Company in account with the United States at St. George Island, Alaska.*

May 24, 1890—	
To natives general fund	$193.12

(L.)—*Census of St. Paul Island, Alaska, July 31, 1890.*

Names.	Age.		Place of Birth.	Occupation.
	Males.	Females.		
Ariamonoff, Keruch	65		St. Paul Island	Sealer.
Ariamonoff, Alexander, wife		39	St. Michael's	
Ariamonoff, Anxeima, daughter		24	St. Paul Island	
Iranoff, Eodakia, sister		18	St. Michael's	
Arkashoff, Aneny	25		St. Paul Island	Sealer.
Arkashoff, Euphemia, wife		30	" "	
Austegoff, Peter	27		St. George Island.	
Austegoff, Parascoria, wife		23	St. Paul Island	
Austegoff, Stepanida, mother		56	St. George Island.	
Iranoff, Anastasia, niece		12	St. Paul Island	
Sharshurkoff, George, adopted		9	" "	
Bogdanoff, Nicoli	20		St. George Island.	
Bogdanoff, Feronia, wife		21	St. Paul Island	
Bogdanoff, Zœhar, son	½		" "	
Bourdukopsky, Appolyon	38		Oonalaska	Sealer.
Bourdukopsky, Chioni, wife		31	St. Paul Island	
Bourdukopsky, Peter, son	12		" "	
Bourdukopsky, Onleta, daughter		7	" "	
Todoshuakoff, Evdokia, adopted		15	Oonalaska	
Butavin, Karp	38		St. Paul Island	Sealer.
Butavin, Parascovia, wife		36	Oonalaska	
36 Butavin, Constantine, son	5		St. Paul Island	
Butavin, Ivan, son	½		" "	
Mesukin, Mary, adopted		18	" "	
Butarin, Kenich	61		" "	Sealer.
Butarin, Catherine, daughter		18	" "	
Emanoff, George	24		" "	Sealer.
Emanoff, Anna, mother		60	Oonalaska	
Kosnetzoff, John, nephew	15		St. Paul Island	
Kosnetzoff, Agafia, niece		12	" "	
Fratis, John	46		Sadrone Islands	Sealer.
Fratis, Akoolena, wife		20	Oonalaska	
Fratis, Susanna, daughter		13	St. Paul Island	
Fratis, John, son	5		" "	
Glotoff, John	24		" "	Sealer.
Glotoff, Mary, mother		63	Oonalaska	
Gromoff, Nicoli	24		Alton	Sealer.
Gromoff, Ouleanna, wife		23	St. Paul Island	
Ledisk, Elizabeth, adopted				
Haberoff, Paul	40		Kodiak	Sealer.
Kotchootin, Euphemia	48		St. Paul Island	Sealer.
Kotchootin, Pelogia, wife		41	Oonalaska	
Bogdanoff, Mary, adopted		17	St. George Island.	
Kotchootin, George	43		St. Paul Island	Sealer.
Kotchootin, Maria, wife		29	Oonalaska	
Kotchootin, Peter, son	12		St. Paul Island	
Kotchootin, Trepon, son	6		" "	
Kotchootin, Matrona, daughter		4	" "	
Kotchootin, ——, daughter, infant			" "	
Kotchootin, Jacob	40		" "	Sealer.
Kotchootin, Fevroma, wife		37	Unga	
Kotchootin, Onleta, daughter		17	St. Paul Island	
Kotchootin, Ellen, daughter		7	" "	
Kotchootin, Theodore, son	3		" "	
Kotchootin, ——, son, infant			" "	
Sodoshmkoff, Natalia, adopted		11	Unga	
Koohwinkoff, Enphem	37		St. George Island.	Sealer.
Koohwinkoff, Ardolia, wife		31	St. Paul Island	
Koohwinkoff, Paul, son	8		" "	
Kezeroff, Stepan	39		Oonalaska	Sealer.
Kezeroff, Anastasia, wife		40	"	
Kezeroff, Trepon, son	7		St. Paul Island	
Kezeroff, Teonaby, daughter		3	" "	
Nesekoff, Semion, stepson	15		Oonalaska	
Krukoff, Sukeria, adopted		16	"	
Krukoff, Peter	39		Sitka	Sealer.
Krukoff, Anna, wife		35	St. Paul Island	
Krukoff, Meoli	41		At sea near Sitka	Sealer.
Krukoff, Catherine, wife		31	Sitka	
Krukoff, Metrofan, son	8		St. Paul Island	
Krukoff, Onsteana, daughter		½	" "	
Krukoff, Maxim	35		Sitka	
Krukoff, Feoctesta, wife		26	St. Paul Island	
Krukoff, John, son	11		" "	
Krukoff, ——, son, infant			" "	
Kushin, Aggie	37		Kroosle Island	Sealer.
Kushin, Mary, wife		36	St. George Island.	
Kushin, Sukeria, daughter		14	St. Paul	
Kushin, Michael, son	7		St. George Island.	
Shoposhmkoff, Yatiana, adopted		17	Oonalaska	

(L.)—*Census of St. Paul Island, Alaska, July 31, 1890*—Continued.

	Names.	Age. Males.	Age. Females.	Place of Birth.	Occupation.
	Mandreau, Aeon	34		St. George Island	Sealer.
	Mandreau, Maria, wife		28	Alton	
	Mandreau, Mary, daughter		7	St. Paul Island	
	Mandreau, Zova, daughter		5	" "	
	Sedich, Ardolia, niece		10	" "	
	Sedich, Zachar, nephew	6		" "	
	Melvudoff, Antone	36		Kodiak	Sealer.
	Melvudoff, Agrafena, wife		34	Atka	
	Melvudoff, Alexandria, daughter		10	St. Paul Island	
	Melvudoff, Olega, daughter		6	" "	
	Melvudoff, Mary, daughter		4	" "	
	Melvudoff, Alexandra, mother		56	California	
	Melvudoff, Alexander, brother	17		St. Paul Island	Sealer.
	Sharohmkoff, Matrona, adopted		7	" "	
	Nederozoff, Martin	37		" "	Sealer.
	Nederozoff, Stepan	34			Sealer.
37	Nederozoff, Alexandra, wife		29	Alton	
	Nederozoff, Mary, niece		10	St. Paul Island	
	Nederozoff, Prokopy, nephew	6		" "	
	Nederozoff, Dormedont, nephew	4		" "	
	Pankoff, Pofaria	29		" "	Sealer.
	Pankoff, Olga, wife		29	St. George	
	Pankoff, Vulsie, son	3		St. Paul Island	
	Kezanzoff, Natalia, mother-in-law		57	St. George	
	Paranchin, Daniel	33		St. Paul Island	Sealer.
	Paranchin, Alexandra, wife		30	Oonalaska	
	Prokopreoff, Flademar	20		Alton	Sealer.
	Rookoorshmkoff, Jachar	38		St. Paul Island	Sealer.
	Rookoorshmkoff, Anissia, wife		26	Oonalaska	
	Rookoorshmkoff, Stepan, son	10		St. Paul Island	
	Rookoorshmkoff, Paroscovia, daughter		2	" "	
	Sedich, Theodore	44		" "	Sealer.
	Sedich, Martha, wife		37	Oonalaska	Sealer.
	Sedich, Anna, daughter		21	St. Paul Island	
	Sedich, Anastasia, daughter		17	" "	
	Sedich, Mary, daughter		5	" "	
	Sedich, Innokentu, son	7		" "	
	Sedich, Yustinia, daughter		3	" "	
	Sedich, Phillip, nephew	13		" "	
	Shaeshmkoff, Rev. Paul	56		" "	Priest, Greek Church.
	Shaeshmkoff, Nadesda, niece		14	Oonalaska	
	Shaeshmkoff, Valerian, nephew	12		St. Paul Island	
	Shabolin, Trecon	25		" "	Sealer.
	Shabolin, Ontila, wife		22	" "	
	Shabolin, Agrefena, daughter		3	" "	
	Shabolin, Agrefena, mother		50	Oonalaska	
	Shutyagin, Catherine			St. Paul Island	
	Shutyagin, Metrofan	30		" "	Sealer.
	Shutyagin, Onlita, wife		24	St. George	
	Shutyagin, Paroscovia, sister			St. Paul Island	
	Sedule, Vasely	49		Kodiak	Sealer.
	Sedule, Elizabeth, wife		51	Oonalaska	
	Sedule, Vora, daughter		11	St. Paul Island	
	Stepetine, Elary	28		" "	Sealer.
	Stepetine, Anna, wife		21	Oonalaska	
	Stepetine, Ontanna, daughter		3	St. Paul Island	
	Fratis, Ellen, niece		7	" "	
	Stepetine, Forofay	21		" "	Sealer.
	Stepetine, Ardotia, mother		56	" "	
	Tarakanoff, Kerrich	38		" "	Sealer.
	Tarakanoff, Anna, wife		34	Sitka	
	Tetoff, Jonas	22		St. Paul Island	Sealer.
	Tetoff, Peter	27		" "	Sealer.
	Tetoff, Mary, wife		31	St. George Island	
	Tetoff, Zachar, brother	12		St. Paul Island	
	Tetoff, Alexandra, sister		14	" "	
	Gleboff, Chronia, mother-in-law		51	St. George Island	
	Gleboff, Tassa, sister-in-law		18	" "	
	Volkoff, Markel	47		Atka	Sealer.
	Volkoff, Alexandra, wife		38	Oonalaska	
	Volkoff, infant, boy	Infant		St. Paul Island	
	WIDOWS.				
	Arkashoff, Martha		31	Oonalaska	
	Zatzmenoff, Anxemia, niece		14	St. Paul Island	
	Zatzmenoff, Tassia, sister-in-law		25	" "	
	Balakshin, Matrona		42	" "	
	Balakshin, Agapia, niece		13	" "	

(L.)—*Census of St. Paul Island, Alaska, July 31, 1890*—Continued.

Names.	Age.		Place of Birth.	Occupation.
	Males.	Females.		
WIDOWS—continued.				
Shopochinkoff, Parascona, adopted		25		
Belglasoff, Ellen		56	St. Paul Island	
Tarakanoff, Mary, adopted		15		
Krukoff, Natatia		39	St. Paul Island	
Krukoff, John, son	11			
Hopoff, Aniasia		24	Oonalaska	
Hopoff, Nekita, son	3		St. Paul Island	
Kozeroff, Aodotia		30	St. George Island	
Kesloff, Parascovia		33	Oonalaska	
Kesloff, Teodotia, daughter		13	St. Paul Island	
Kesloff, Michael, son	4		" "	
38 Kesloff, Nicoli, son	3		St. Paul Island	
Serebremkoff, Olga, sister		27	" "	
Mandregin, Yestenia		29	" "	
Rookoorskuskoff, Anna, adopted		6	" "	
Murenhoff, Anxemia		35	" "	
Murenhoff, Alexander, son	16		" "	Sealer.
Murenhoff, Martin, son	10		" "	
Murenhoff, Ellen, daughter		12	" "	
Murenhoff, Tutoff, daughter		14	" "	
Murenhoff, infant, son	Infant.		" "	
Arderazoff, Akoopena		45	" "	
Arderazoff, Agrofena		23	" "	
Arderazoff (infant son of Agrofena)			" "	
Pomohoff, Barbra		41	" "	
Pomohoff, Salome		16	" "	
Merculuff, John, adopted			" "	
Pushrukoff, Vasseleesia		32	" "	
Popoff, Ardotea		32	Alton	
Popoff, Evrosenia, daughter		1	St. Paul Island	
Balakshin, Anna, daughter		8	" "	
Popoff, Aranasea		46	" "	
Shityagin, Dana, adopted		11	" "	
Resenza, Anna		58	Koskogrume	
Galakleonoff, Claudia		12	Oonalaska	
Ledich, Dana		48	"	
Katchootin, John, son	21		St. Paul Island	Sealer.
Katchootin, Zenoria, daughter		23	" "	
Katchootin, Ellen, daughter		17	" "	
Loroken, Marth		21	Oonalaska	
Shane, Catherine		31	Sitka	
Shane, Mary, daughter		12	St. George Island	
Shane, Freokla, stepdaughter		22	" "	
Shane, Parascoria Yuoklad, daughter		4	" "	
Shane, Elevery Yuoklad, son	3		St. Paul Island	
Tetoff, Foducia		34	Kiverle Island	
Tetoff, Irene, daughter		7	St. Paul Island	
Tetoff, Sofa, daughter		5	" "	
Tetoff, Anxemia, daughter (dead)		2	" "	
Kotchergin, Ardotea, daughter		17	" "	
Torentora, Anna		72	" "	
Torentora, Anna, daughter		39	" "	
Volkoff, Ellen		36	" "	
Krohin, Meria, niece		11	" "	
Zacharoff, Kiracha		45	Oonalaska	
Zacharoff, Emanuel, son	11		St. Paul Island	
Zacharoff, Feodosia, daughter		15	" "	

RECAPITULATION.

Total population, July 31, 1890	213
Males—	
Adults	42
5 to 17 years	23
Under 5 years	12
Females—	
Adults	73
5 to 17 years	41
Under 5 years	22
	213

(I.)—*Statement of Liabilities of the North American Commercial Company, etc.*—Cont'd.

Name.	Amount.	Name.	Amount.
Bank Account drawing 4 per cent.		*Bank Account drawing 4 per cent*—Continued.	
John Fratis	$1,438.30	Nedeeda Shaishinkoff	$165.09
Rev. Paul Shaishinkoff	3,341.74	Kerrick Arlamanoff	2,281.09
Catherine Shutyagara	224.75	Kerrick Butesin	2,948.33
Markel Volkoff	983.68		
Ellen Volkoff	200.00		11,884.94
Ardotia Sediek	104.17		
Elizabeth Sediek	93.61	Total	25,263.84
Zashar Sediek	104.18		

NOTE.—From the North American Commercial Company ten widows receive weekly rations, and others will have to be added soon.

List of Accounts transferred to the North American Commercial Company by the Alaska Commercial Company for Natives of St. Paul Island, May 24, 1890.

Name.	Occupation or Condition.	Amount.
Peter Krukoff	Sealer	$192.85
Nicoli Krukoff	"	80.60
Maxim Krukoff	"	111.73
Estate of Pemin Koznelzoff (for minor heirs)		735.30
Aggie Kushin	Sealer	67.05
John Koznelzoff	"	32.17
Natalia Krukoff	Widow	57.60
Parascovia Kozeroff	"	43.50
Neon Mandregan	Sealer	90.30
Vasili Sedule	"	98.05
Testeuria Mandregan	Widow	81.90
Antone Melevidoff	Sealer	172.85
Simeon Melevidoff	"	60.9[illegible]
Alex Melevidoff	"	22[illegible].7
Anexenia Merculiff	Widow	10[illegible]
Alexander Merculiff	Sealer	2[illegible]
Akoolena Nedarazoff	Widow	2[illegible]
Martin Nederazoff	Sealer	6[illegible]
Daniel Parauchin	"	7[illegible]
Barbara Pohomoff	Widow	[illegible]
Parfaria Paukoff	Sealer	7[illegible]
Vassilisia Peeshinkoff	Widow	7[illegible]
Afanasia Popoff	"	7[illegible]
Ardotia Popoff	"	5[illegible]
Zachar Rookoorshinkoff	Sealer	8[illegible]
Anna Rezauzoff	Widow	12[illegible]
Agafy Shaposhinkoff	Minor	7[illegible]
Theodore Sediak	Sealer	8[illegible]
Metrofan Shutyagin	"	[illegible]
Rev. Paul Shaishinkoff	Priest	12[illegible]
Agrafina Shabolin	Widow	14[illegible]
Neon Shabolin	Sealer	6[illegible]
Klarcy Stepetin	"	16[illegible]
Marina Stepetin	Widow	25[illegible]
Dorafay Stepetin	Sealer	37[illegible]
Valiolan Shaishinkoff	Minor	16[illegible]
Matrona Shaishinkoff	"	16[illegible]
George Shaishinkoff	"	15[illegible]
Catherine Shane	Widow	4[illegible]
Kerrick Tarrakanoff	Sealer	7[illegible]
Fedosia Tetoff	Widow	11[illegible]
Peter Tetoff	Sealer	8[illegible]
Neon Tetoff	"	7[illegible]
Anna Yarantova	Widow	15[illegible]
Markel Volkoff	Sealer	5[illegible]
32 Estate of John Yatzaamauff, held for minor heirs		27[illegible]
Martha Saroken	Widow	2[illegible]
Mrs. Alex. Melevidoff	"	22[illegible]
Ellen Volkoff	Unmarried	2[illegible]
Alex. Merculiff	Sealer	[illegible]
Fedosia Koshromikoff		1[illegible]
Kerrick Artamanoff	Sealer	[illegible]
Arseney Arkashoff	"	[illegible]
Peter Oustegoff	"	[illegible]
Kerrick Butesin	"	1[illegible]
Apollon Bourdeakofsky	"	[illegible]
Nicoli Bogodaniff	"	[illegible]
Ellen Belaglazoff	Widow	[illegible]

Accounts transferred to the North American Commercial Company, etc.—Cont'd.

Name.	Occupation or Condition.	Amount.
Emanoff	Sealer	$128.05
ratis	"	135.55
Gromoff	"	135.85
ar Prokopuff	"	302.52
lotoff	"	82.29
aberoff	"	75.05
a Hopoff	Widow	75.05
ansen	Sealer	114.40
atchooten	"	87.49
Katchooten	"	73.85
ne Katchooten	"	73.05
Katchooten	"	113.85
Kozeroff	"	77.85
a Zacharoff	Widow	93.00
utesin	Sealer	113.85
Nedarazoff	"	83.85
ne Koshroenkoff	"	86.85
		8,870.73
On Special Deposit at 4 per cent. per annum.		
r Artamanoff	Sealer	2,281.09
r Butesin	"	2,948.33
ratis	"	1,525.00
ul Shaishinkoff	Priest	3,341.74
ne Shutvagin	Widow	227.05
Volkoff	Sealer	983.68
Volkoff	Unmarried	343.08
a Sedick	Minor	104.17
th Sedick	"	93.61
Sedick	"	104.18
a Shaishinkoff	"	105.09
		12,117.02
Total		20,987.75

Distribution of Proceeds from Fur-Seals taken on St. Paul Island, 1890.

t 1, 1890—	
,777 seal-skins, at 40 cents	$6,710.80
seal-skins, cut, at 20 cents	10.60
6 seal-skins, rejected	62.40
sea-lion skins, at 1 dollar	40.00
Less provisions at N. E. Point	40.50
Total	6,783.30

FIRST CLASS.

v. Paul Shaishmkoff, priest	158.19
tone Melevidoff, first chief	158.19
rp Buterin, second chief	158.19
cob Kooehuten	158.19
orge Kooehuten	158.19
eo. Sedick	158.19
ggie Cushing	158.19
artin Nedarazoff	158.19
9. Stepan Kozeroff	158.19
10. Neon Mandregan	158.19
11. Peter Krukoff	158.19
icoli Krukoff	158.19
errick Tarrakanoff	158.19
aniel Paranchin	158.19
pollon Burdukoffsky	158.19
achar Rookarishmkoff	158.19
upheme Kushirmkoff	158.19
tepan Nedarazoff	158.19
arfiri Ponkoff	158.19

39 (M.)—*Census St. George Island, Alaska, July 31, 1891.*

Names.	Age.	
	Males.	Females.
Lestenkoff, Rev. Inokenty	59	
Lestenkoff, Elsavta, wife		55
Lestenkoff, Michael, son	17	
Lestenkoff, Helena, daughter		24
Lestenkoff, Mary, daughter		20
Lestenkoff, Sarah, daughter		13
Shankingkoff, Julia, grand-daughter		13
Lestenkoff, Demetri, widower	26	
Lestenkoff, Anna, daughter		2
Murenlieff, Mark, adopted	4	
Philamonoff, Andronie	23	
Philamonoff, Zenvoia, wife		25
Philamonoff, infant		
Galanin, Oelina, widow		27
Galanin, Evan, son	8	
Prokopief, Peter	25	
Prokopief, Fedosia, wife		19
Prokopief, Apanasia, brother	12	
Kezanzaff, Fedosia, widow		46
Kezanzaff, Inokenty, son	12	
Kezanzaff, Terafinia, grand-daughter		
Onstegoff, Alexa, widower	40	
Galaktianoff, Alexander	39	
Galaktianoff, Oxenia, wife		18
Smetzoff, Eustin	39	
Smetzoff, Krestina, wife		33
Smetzoff, Gregorie, son	4	
Philamonoff, Eoff, widower	45	
Philamonoff, Gregorie, son	17	
Philamonoff, Demetria, son	3	
Philamonoff, Eogime, daughter		16
Gorokoff, Corinal	34	
Gorokoff, Katerina, wife		35
Gorokoff, Anna, daughter		10
Galaime, Perfor, brother-in-law	16	
Galaime, Alexander, adopted	4	
Kuliknlieff, Evan	44	
Kuliknlieff, Varvara, wife		4
Arkoloff, Erdokia, adopted		
Shane, Raisha, widow		
Shane, Ouletta, daughter		
Shane, Michael, son	2	
Morenlieff, Natalia, sister		
Morenlieff, Nedesda, adopted		
Oustegoff, Olleta, widow		
Oustegoff, Simeon, step-son	26	
Oustegoff, Agrafena, daughter		
Oustegoff, Eproxia, daughter		
Oustegoff, Michael, son	5	
Oustegoff, Sosania, daughter		
Oustegoff, Peligia, daughter		
Reganzoff, Peter	44	
Reganzoff, Matrona, wife		
Reganzoff, Fatiana, daughter		
Philamonoff, Simeon	40	
Philamonoff, Eodokia, wife		
Philamonoff, Efriam, son	19	
Philamonoff, Imokenty, son	15	
Philamonoff, Fedosia, daughter		
Philamonoff, Audrian	23	
Philamonoff, Parascovia, wife		
Philamonoff, Peligia		
Malavansky, Mary, widow		
Malavansky, Meole, son	25	
Malavansky, Wassa, daughter		
Malavansky, Repseima, daughter		
Malavansky, Stepmeda, grand-daughter		
Malavansky, Kleopatra, grand-daughter		
Malavansky, Peter, son	1	
Nederazoff, Arkenty	38	
Nederazoff, Eogenia, wife		
Nederazoff, Malima, daughter		
40 Nederazoff, Meoli, son	12	
Muenlieff, Frevonia, widow		
Muenlieff, Joseph, son	18	
Muenlieff, George, son	16	
Muenlieff, Stepenida, daughter		13
Muenlieff, John, son (infant)		
Muenlieff, Helena, daughter		5

)—*Census St. George Island, Alaska, July 31, 1891*—Continued.

Names.	Age.	
	Males.	Females.
nia, sister		30
ia, daughter		12
	21	
wife		21
ant)		
leaia, widow		38
, son	13	
andra, daughter		11
kia, daughter		6
na, daughter		3
(infant)		

RECAPITULATION.

ion	90
	19
ars	10
ears	8
	24
ars	19
ears	10

Accounts transferred to the North American Commercial Company by the Commercial Company for the Natives of St. George, May 24, 1890.

Names.	Amount.	Names.	Amount.
	$58.71	Meoli Maluoansky	$187.00
f	70.00	Demetri Testrukoff	205.69
	20.51	Gregorie Philamanoff	7.25
, widow	40.00	George Merenliff	10.25
f	125.00	Andronie Philamanoff	123.50
idow	61.50	Serafinea Rezanzoff, orphan	61.20
anoff	125.00	Nedesda Muenliff, orphan	201.49
f	149.65	Ardokia Kikoliff, orphan	232.69
erenliff	146.00	Mark Merenliff, orphan	211.39
	81.00	Ardokia Popoff	74.46
azoff	164.00	Ogefinia Onstigoff, orphan	18.05
off	128.53	Fedoria Rezanzoff, widow	50.00
noff	166.00		
ff	164.00		3,691.87
	10.50		
ff	60.00	Rev. Irmokenty Testinkoff, priest	1,700.00
nzoff	95.50	St. George Church	1,394.55
stigoff, widow	127.50		
	167.00		3,094.55
f	163.50		
ff	125.00	Total	6,786.42

41 *North American Commercial Company, San Francisco, Cal. Division of pro of Sealing at St. George Island for the Season of 1890.*

[4,112 seal-skins at 40 cents, 1,644 dol. 80 c.]

FIRST CLASS.

Lestankoff, Dimetra	$85.56	
Nederozoff, Arkenty	85.56	
Austokoff, Alexage	85.56	
Philamonoff, Eoff	85.56	
Philamonoff, Simeon	85.56	
Gorokoff, Corneal	85.56	
Swetzoff, Ensten	85.56	
		$59

SECOND CLASS.

Malaranski, Meoli	72.72	
Philamonoff, Andronie	72.72	
Philamonoff, Andrean	72.71	
Sekarnoff, Stepan	72.71	
		29

THIRD CLASS.

Kulikoloff, Evan	64.17	
Rezanzoff, Peter	64.17	
Onstekoff, Simeon	64.17	
Merculiff, Joseph	64.17	
Prokoploff, Peter	64.17	
Lestankoff, Mike	64.17	
		38

SPECIAL CLASS.

Lestankoff, Rev. Innakentz	200.00	
Philamonoff, Gregorie	25.00	
Philamonoff, Ephraim	25.00	
Merculiff, George	25.00	
Galanin, Hafara	25.00	
Rezanzoff, Innakenty	25.00	
Nederazoff, Meoli	15.00	
Merculiff, John	15.00	
Philamonoff, Innakenty	15.00	
		37
Total		1,64

List of Natives' Accounts due them by North American Commercial Company.

Names.	Balance Cr.	Names.	Balan
Simeon Philamonof	$216.56	Ephraim Philamonof	
Alex. Onstegof	216.06	Pafara Galanin	
Andrean Philamonof	170.21	Meoli Nedarazof	
Andronie Philamonof	170.22	John Merculef	
Eof Philamonof	202.21	Innakenty Philamonof	
Jos. Merculif	112.17	Rev. Innakenty Lestankof	1,
Peter Rezanzof	123.17	St. George Church	1,
Stepan Sekhanof	170.21	Sebastian Merculif	
Peter Prokopie	64.17	Nadesda Merculif	
Simeon Onstegof	166.92	Zahar Onstekof	
Uston Swetzof	209.56	Sorapheme Rezanzof	
Arkenta Nedarazof	208.56	Ruse Shane	
Corneal Gorokhof	213.56	Fedosia Rezanzof	
Meoli Malaranski	233.72	Okalina Galanin	
Demetra Lestenkof	286.25	Andotia Papoff	
Mike Lestenkof	66.67	Efiokie Vickloff	2
Gregory Philamonof	25.00	Agzafina Onstekof	
George Merculef	27.00	Natalia Merculeff	
Innakenty Rezanzof	98.50	Mark Merculif	2
Evan Kulikoloff	102.88		

42 (O.)—*Receipts of Agents Lavender and Murray.*

ISLAND OF ST. PAUL, BEHRING'S SEA, ALASKA,
August 9, 1890.

This is to certify that 16,874 fur-seal skins have this day been shipped on board the steam-ship "Arago," Captain Thomas commanding, and consigned to the North American Commercial Company of San Francisco. This being the total catch on St. Paul Island for the season of 1890.

(Signed) JOSEPH MURRAY,
Assistant Treasury Agent.

ISLAND OF ST. PAUL, ALASKA, *August 9, 1890.*

Received this day on board the steam-ship "Arago," for the North American Commercial Company of San Francisco, 16,874 fur-seal skins.

(Signed) H. C. THOMAS,
Captain commanding "Arago."

ISLAND OF ST. ———, BEHRING'S SEA, ALASKA,
August 11, 1890.

This is to certify that 4,121 fur-seal skins have this day been shipped on board the steam-ship "Arago," Captain Thomas commanding, and consigned to the North American Commercial Company of San Francisco. This being the total catch on St. George Island for the season of 1890.

(Signed) ALBERT W. LAVENDER,
Assistant Treasury Agent.

ISLAND OF ST. GEORGE, ALASKA, *August , 1890.*

Received this day on board the steam-ship "Arago," for the North American Commercial Company of San Francisco, 4,121 fur-seal skins.

(Signed) H. C. THOMAS,
Captain commanding "Arago."

WASHINGTON, D. C., *April 29, 1890.*

In case of absolute necessity, caused by scarcity of natives or otherwise, use best judgment and discretion in allowing killing seals for skins after the 20th July.

(Signed) W. WINDOM, *Secretary.*

CHARLES J. GOFF,
Treasury Agent, Seal Islands,
(Care Collector of Customs, San Francisco, California).

(P.)—*Protest of George R. Tingle.*

NORTH AMERICAN COMMERCIAL COMPANY,
St. Paul Island, Alaska, July 18, 1890.

SIR: Your communication of the 8th instant was received, in which you notify me, as Superintendent of the North American Commercial Company, that said Company must cease killing seals on the 20th instant. The delay in replying thereto was with the hope that, as a result of our several verbal discussions of the propriety or necessity of your order, you would be convinced of the untenable position you have assumed and revoke the order, thus allowing the lessees to go on with their business as the law provides. Your announcement to me this evening that you will not revoke your order, and that your decision is final, leaves me but one thing more to do, viz., file this protest against the wisdom, justice, or necessity of enforcing on the lessees what we consider an arbitrary abridgment of our rights under and by virtue of the law.

The lease was executed by the Government of the United States in pursuance of Chapter III, Title 23, Revised Statutes. This law authorized the Secretary of the Treasury to prescribe from time to time the Rules and Regulations by which
43 the Treasury Agents in charge of the seal fisheries shall be governed. There is nowhere in the Law any provision authorizing the Secretary of the Treasury,

after he has fixed upon the number of seals the lessees shall kill in any one year, to cut down the time to such a date as to make it impossible for them to secure the number allowed to be taken.

The date you fix, the 20th instant, it is true, was named by the Secretary of the Treasury on your recommendation, but you received subsequently an order to extend the time or "use your best judgment." On the receipt of said telegraphic order the day before our ship sailed, you told the President of the Company, I. Liebes, and myself, that "it would be all right; it was as good as we wanted," &c., satisfying the President of the Company and myself that you would extend the time, otherwise we would not have sailed until we received from the Secretary a positive revocation of that part of his instructions which cut us off on the 20th from killing seals.

You said to-day that seeing that seals were so scarce determined you to stop the killing on the 20th, and yet you admit of having ordered Colonel Murray, on St. George Island, the Treasury Agent in charge, to stop our agent there from killing. This order was issued to Colonel Murray at an early date, before the killing of seals had hardly commenced, and it was not known whether they would be few or many. The law says the lessees shall give the natives a maintenance out of the taking of the sealskins. How can that provision of the law be carried out when the Government steps in and stops the lessees from killing when they are taking 1,000 seals a-day? By the enforcement of your orders as the Representatives and Agents of the United States, you deprive the natives of a maintenance. You deprive the Government of large revenue. You cause the North American Commercial Company great loss. You turn over to the marauders and other natural enemies of the seals in the water many thousands of fine killable merchantable seals, which we could take without any detriment whatever to the rookeries.

We have every reason to believe, from the marked increase of new arrivals of fine seals, that if we were allowed by you to continue our killing under the law, we could fill our quota of 60,000 seals. Believing this, we will claim damages from the Government of the United States equal to the loss we sustained by your act limiting the time to the 20th instant when we shall cease killing. This limitation of time has no precedent in the past twenty years, while the quota for St. George and St. Paul Islands was several times changed. The law fixed the time when the killing shall cease, but the Secretary can fix the number to be killed each year—not exceeding 100,000.

In view of the foregoing facts, the North American Commercial Company respectfully claim the right to be allowed to proceed with the execution of their business under and by virtue of their lease.

I am, &c.

(Signed) GEO. R. TINGLE,
Superintendent, North American Commercial Company.

C. J. GOFF, Esq.,
Treasury Agent in charge of Seal Fisheries.

OFFICE OF SPECIAL AGENT, TREASURY DEPARTMENT,
St. Paul Island, Alaska, July 19, 1890.

MY DEAR SIR: Your communication bearing date the 18th instant received, and, in reply, will say, as a subordinate of the Treasury Department, I do not desire to discuss the subject-matter contained in your letter. I respectfully refer you to the Honourable William Windom, Secretary of the Treasury, to whom your letter has been referred.

Respectfully yours,

(Signed) CHARLES J. GOFF,
Treasury Agent in charge of the Seal Fisheries.

Hon. GEORGE R. TINGLE,
General Manager, North American Commercial Company.

44 (Q.)—*Table showing Number of Fur-Seals killed for skins on the Island of St. George by the Alaska Commercial Company, and also for natives' food, from 1870 to 1889, inclusive; the Amount of Earnings received by the natives of this Island for taking and curing these skins; also Amount earned by St. George men on St. Paul Island and the distribution of said earnings; the Total Number of Fur-Seal Skins shipped from St. George Island by the Alaska Commercial Company from 1870 to 1889, inclusive.*

Year.	Total Fur-seal Skins shipped.	Paid to Natives for taking and curing Skins.	Total Fur-seals killed.	Total rejected stagy.
1870*				
1871†	19,077	$7,630.80	19,077	
1872	25,000	10,000.00	25,000	
1873	25,000	10,000.00	25,067	67
1874‡	10,000	4,000.00	10,000	
1875§	10,000	4,000.00	10,034	34
1876	10,000	4,000.00	10,279	279
1877	15,000	6,000.00	15,143	143
1878	18,000	7,200.00	18,360	360
1879	20,000	8,000.00	20,316	316
1880	20,000	8,000.00	20,358	275
1881	20,000	8,000.00	20,233	126
1882	20,000	8,000.00	20,316	291
1883	15,000	6,000.00	15,076	
1884	15,000	6,000.00	15,000	
1885	15,000	6,000.00	15,145	120
1886	15,000	6,000.00	15,083	29
1887	15,000	6,000.00	15,166	76
1888	15,000	6,000.00	15,179	113
1889	15,000	6,000.00	15,082	40
Total	317,077	126,830.80	319,914	2,269

Years.	Distribution of Natives' Earnings for taking and curing Fur-seal Skins.							
	St. George Earnings transferred from St. Paul.	Received by St. George Church.	Received by St. George Priest.	Received by St. George Widows.	Received by St. George Aged and Sick.	Received by St. George Chief as Salary.	Received by Oonalaska Priest.	Received by St. Paul Priest.
1870*								
1871†				$130.00				
1872				20.00				
1873								
1874‡	$6,000.00							
1875§	5,600.00	$340.00					$300.00	$340.00
1876		160.00					160.00	160.00
1877		250.00					250.00	250.00
1878		300.00						300.50
1879		380.00						375.00
1880		1,000.00						
1881		172.00						
1882		100.00	$700.00					
1883			375.00			$90.00		
1884	2,814.85		600.00			100.00		
1885	3,036.05		800.00			100.00		
1886	3,000.00		800.00		$100.00	80.00		
1887	2,500.00		800.00	50.00		100.00		
1888	1,500.00		800.00			100.00		
1889	1,300.00		800.00	250.00		100.00		
Total	25,780.40	2,702.00	5,675.00	450.00	100.00	670.00	710.00	1,425.50

*No record of seals killed on St. George Island in 1870.
†19 dol. 25 c. unaccounted for.
‡15,000 fur-seal skins shipped from St. Paul to St. George and credited to St. George.
§14,000 fur-seal skins shipped from St. Paul to St. George and credited to St. George.

45 RECAPITULATION.

Fur-seals killed for skins on St. George Island by the Alaska Commercial Company, and for natives' food, from 1870 to 1889, inclusive.....	3
Fur-seal skins shipped by the Alaska Commercial Company from St. George Island from 1870 to 1889.....	3
Fur-seal skins rejected and stagy.....	
Destruction to seal life in securing catch on St. George from 1870 to 1889..	
	3
Earnings received by natives for labour on—	
St. George Island from 1870 to 1889.....	$126,
St. Paul Island " "	25,
	152,
Donations	11,
Unaccounted for.....	
Expended by natives from 1870 to 1889	134,
Balance to natives' account on May 24, 1890, and turned over by Alaska Commercial Company to North American Commercial Company.....	6,
	152,

NOTE.—Total number of fur-seal pups killed for natives' food on St. George from 1870 to 1889, inclusive, 29,060.

Consolidated Report showing the Total Number of Fur-Seals killed for skins on the I of St. Paul and St. George by the Alaska Commercial Company from 1870 to 1889, sive; also the Number of large young Seals and Pups killed for natives' food Islands of St. Paul and St. George from 1870 to 1889, inclusive; the Total Nun Fur-Seal Skins shipped from St. Paul and St. George Islands by the Alaska Comm Company from 1870 to 1889, inclusive; the Amount of Earnings received by the nat St. Paul and St. George for taking and curing skins and the distribution of said ear

Fur-seals killed for skins on the Islands of St. Paul and St. George by the Alaska Commercial Company, and also for natives' food, from 1870 to 1889, inclusive.....	1,8
Fur-seal skins shipped from St. Paul and St. George by the Alaska Commercial Company from 1870 to 1889, inclusive.....	1,8
Fur-seals rejected as stagy at St. Paul and St. George from 1870 to 1889 inclusive.....	
Fur-seals destroyed on St. Paul and St. George in securing the catch from 1870 to 1889, inclusive.....	
	1,8
Earnings received by natives of St. Paul and St. George from 1870 to 1889, inclusive.....	$755,
Donations by natives of St. Paul and St. George from 1870 to 1889, inclusive	50,
Paid to Chiefs on St. Paul Island (St. George's is included in donations).	3,
Paid to St. George men for work done on St. Paul Island.....	25,
Paid to Kodaik men for work done on St. Paul Island.....	
Unaccounted for.....	
Paid to school teacher.....	
Expended by the natives of St. Paul and St. George from 1870 to 1889, inclusive	643,
Balance due to natives May 24, 1890, now held by the North American Commercial Company.....	28,
Balance held by Alaska Commercial Company for Mrs. Melevidoff.....	3,
	755,
Fur-seal pups (five months old) killed for natives' food on—	
St. Paul and St. George Islands from 1870 to 1889, inclusive.....	
St. Paul Island from 1870 to 1889, inclusive.....	
St. George Island from 1870 to 1889, inclusive.....	

Table showing the Number of Fur-Seals killed for skins on the Island of St. Paul by the Alaska Commercial Company, and also for natives' food, from 1870 to 1889, inclusive; the Amount of Earnings received by the natives of this Island for taking and curing these skins, and the distribution of said earnings; the Total Number of Fur-Seal Skins shipped from St. Paul Island by the Alaska Commercial Company from 1870 to 1889, inclusive.

Years.	Total Fur-seal Skins shipped.	Paid to Natives for taking and curing Skins.	Paid to Natives for general Labour.	Total Fur-seals killed.	Rejected stagy Skins.
.....	6,017	$2,406.80	.....	6,017	.....
.....	76,134	30,853.60	$580.40	77,925	431
.....	74,941	30,416.00	221.97	76,698	1,536
.....	74,485	29,597.80	76.80	76,488	736
.....	89,924	29,849.60	217.53	97,932	566
.....	89,687	30,098.00	276.03	91,215	451
.....	80,000	31,848.20	113.40	79,199	1,979
.....	60,199	23,981.60	146.40	62,813	1,088
.....	82,000	32,654.00	2,218.38*	83,034	981
.....	80,000	31,908.60	1,910.86†	86,592	1,977
.....	80,000	31,889.00	215.40	80,276	275
.....	79,905	31,825.00	54.00	81,501	1,341
.....	80,000	31,750.80	250.50	81,420	1,414
.....	60,000	23,896.80	97.00	61,987	1,775
.....	85,000	33,785.60	240.00	86,013	941
.....	84,995	33,933.00	12.00	86,364	1,182
.....	85,000	33,941.80	134.00	85,689	635
.....	85,000	33,839.80	203.40	85,629	590
.....	85,000	33,834.60	15.60	85,271	196
.....	85,000	33,744.80	15.00	85,053	.....
Total.....	1,523,287	596,056.00	7,005.67	1,557,116	18,124

Years.	Distribution of Natives' Earnings for taking and curing Fur-seal Skins.								
	Received by St. Paul Church.	Received by St. Paul Priest.	Received by St. Paul Widows.	Received by St. Paul Aged and Sick.	Received by St. Paul Church for translation of Church Service.	Received by Chiefs as Salary.	Received by Oonalaska Church.	Received by Oonalaska Priest.	Received by St. George Men for Work done on St. Paul.
70.....	$150.00	.....	$77.20	.....	.....	.....	.....	$109.30	.....
71.....	910.16	.....	614.82	.....	.....	.....	.....	§455.08	.....
72.....	902.45	$451.22	.....	.....	.....	.....	.....	.....	.....
73.....	870.62	435.11	.....	.....	.....	.....	.....	.....	.....
74.....	859.06	429.53	.....	.....	.....	.....	.....	.....	‖$6,000.00
75.....	432.07	432.07	.....	.....	.....	.....	$432.07	.....	¶5,600.00
76.....	757.12	.....	.....	.....	.....	.....	378.40	756.80	.....
77.....	621.50	621.48	.....	.....	.....	.....	310.74	.....	.....
78.....	855.78	855.78	500.00	.....	.....	$300.00	.....	855.78	.....
79.....	822.24	821.50	200.00	.....	.....	450.00	450.00	.....	.....
80.....	813.10	813.10	150.05	$200.00	$1,219.65	450.00	.....	.....	.....
81.....	857.66	857.66	.....	.....	428.83	225.00	.....	.....	.....
82.....	.....	1,000.00	2,650.00	.....	.....	.....	.....	.....	.....
83.....	.....	750.00	50.00	.....	.....	225.00	.....	.....	.....
84.....	.....	1,000.00	300.00	.....	.....	300.00	.....	.....	2,844.35
85.....	.....	1,000.00	.....	1,000.00	.....	300.00	.....	.....	3,036.05
86.....	.....	1,000.00	200.00	600.00	.....	200.00	.....	.....	3,000.00
87.....	.....	1,000.00	1,500.00	.....	.....	200.00	.....	.....	2,500.00
88.....	.....	1,000.00	150.00	.....	.....	200.00	.....	.....	1,500.00
89.....	.....	1,000.00	2,500.00	.....	.....	200.00	.....	.....	1,300.00
Total.	§8,851.76	§13,467.45	§8,892.07	§1,800.00	§1,648.48	3,050.00	§1,571.21	§2,176.96	25,780.40

*1,022 dol. 92 c. received by natives for making oil, under head of general labour.
†1,666 dol. 06 c. " " " "
‡60 dollars received by school teacher.
§55 dol. 08 c. received by Dr. Kramer: first-class share.
‖5,000 skins credited to St. George men for labour; 680 dollars received by men from Kodiak for fur.
¶4,000 skins credited to St. George men for labour; 12 dol. 60 c. donated to Antone Melevidoff.

47 RECAPITULATION.

Fur-seals killed for skins on the Island of St. Paul by the Alaska Commercial Company, and also for natives' food, from 1870 to 1889, inclusive	1,557,116
Fur-seals killed for skins shipped from St. Paul by the Alaska Commercial Company from 1870 to 1889	1,523,287
Fur-seal skins from St. Paul rejected, stagy	18,124
Destruction to seal life on St. Paul Island in securing catch from 1870 to 1889, inclusive	15,705
	1,557,116
Fur-seals, of all classes, killed for natives' food on St. Paul Island from 1870 to 1889, inclusive	144,801
Fur-seals (large young seals) killed for natives' food, of which the Alaska Commercial Company accepted and shipped 62,873 skins	80,997
Fur-seal pups (five months old) killed for natives' food from 1870 to 1889.	63,804
	144,801
Earnings received by natives of St. Paul Island from 1870 to 1889, inclusive	$603,061.67
Donations received by natives of St. Paul Island	38,875.61
Paid to Chiefs	3,050.00
Paid to St. George men for labour on St. Paul	25,780.40
Paid to Kodiak men	680.00
Paid to school teacher	50.00
With Alaska Commercial Company for Mrs. Melevidoff	3,404.90
Expended by natives from 1870 to 1889	509,890.07
Balance due to natives May 24, 1890, with North American Commercial Company	21,330.60
Total	603,061.67

2. *Report of S. R. Nettleton.*

ST. PAUL ISLAND, ALASKA, *July 31, 1890.*

DEAR SIR: I have the honour herewith to submit my annual Report of the condition of affairs on this island during the time in which I had charge, to wit, from the 23rd September, 1889, the date of your departure, until June of this year, and also to comment briefly upon the condition of the seal rookeries and hauling-grounds of this island during the season which closed on the 20th instant.

I have found the natives of this island an exceedingly easy people to govern and control. The Government Agent in charge, being the sole representative and executive of the law, is, as you are aware, necessarily brought into very close and intimate relations with these people, having to do with the minutest details of their everyday life.

My comparatively brief experience in governing them convinces me that a policy of kindness with firmness, and an appeal to their manhood and womanhood, hold the best promise of good results, having in view their happiness and their advancement to a higher and a better civilization.

I believe that it would be difficult to find anywhere within the jurisdiction of our Government any people so easy to control, considering that they are kept in enforced idleness ten months of each year.

I regard their readiness to comply with any and all Rules and Regulations of this Office for their government as testifying to their manhood and good citizenship.

In this connection, it affords me great pleasure to report that during the time that I have had immediate charge there have been but three instances of violation of any Rule or Regulation. These were mild cases of partial intoxication during their holiday festivities.

There has been no drunkenness or brawling in the village streets or in the homes of the people, not a single breach of the peace.

It is a source of gratification to be able to state that the journals of this Office show that in this regard the winter just closed presents an exception to those of any of the preceding twenty years.

he fact is patent that but little advancement has been made by the natives of
s island towards an intelligent American citizenship during the twenty years that
y have been nominally citizens of the Republic; that not to exceed 10 per cent.
them, who during the time mentioned, have attended English schools, speak the
glish language. This may be explained by the well-known objection of the par-
s to their children learning to speak English, and to the further fact that the
vices of their Church, the Greek Catholic, are conducted wholly in the Russian
and Aleutian language.

The small advancement made by the pupils in the schools is attributable also in large measure to the fact, that the schools have been conducted by per-
s not trained to the profession of teaching.

t is, in my opinion, to be regretted that the Department, in granting the new
se of the Seal Islands, did not reserve to itself the employment of the school
chers, who should hold certificates showing their qualification to teach, at least,
primary branches in our common schools.

n relation to the condition of the seal rookeries and hauling-grounds of this
nd, I do not feel called upon to go into details in view of the full and exhaustive
nner in which the subject is treated in your Report of this year, and also in view
the forthcoming Report of Professor H. W. Elliott, who was sent by the Depart-
nt especially to examine and report upon the condition of seal life on this and
s Island of St. George.

But I desire to add my testimony to that of my associate as to the deplorable con-
ion of the seal grounds upon this island. The large grass-grown areas of these
ounds, until a comparatively recent period occupied *en masse* by seals, to be num-
red by the millions, and now wholly deserted, the driving and redriving from all
the hauling-grounds on this island by the lessees during the present season in
eir efforts to obtain their quota, and the meagre results attained, tell, in stronger
nguage than I can command, the sad story of the very near approach to the entire
struction of seal life upon this island.

It is hardly worth while for me to attempt to theorize as to the probable cause of
e condition of affairs. I deem it sufficient for me, at this time, to corroborate and,
possible, to emphasize what you say in your own Report, as to the past, present,
d the threatened future condition of seal life upon these islands.

The present depleted condition of the seal rookeries on this island urgently calls
r prompt action by the Government to save this important industry from immediate
d complete destruction.

I heartily concur with your views expressed in your Annual Report of 1889 in regard
the killing of pup seals for natives' food. The skins of these pup seals belong to
e natives, to be disposed of by them as they choose, the only restriction imposed
ing that they shall not be exchanged for contraband goods. I desire, through
u, to call the attention of the Department to the fact that these pup sealskins,
ing largely held by the natives for the purpose of barter for spirituous liquors with
e seamen of any craft that may anchor in these waters, are a source of evil, and
ly evil, to the natives. In view of this fact, and also in view of the further fact
at the seal life on this island is rapidly approaching extinction, I respectfully
ggest that the best interests of the natives and the best interests of the Govern-
ent will be the most effectually served by prohibiting the killing in the future of
y pup seals for native food.

Some more economical substitute can, in my judgment, be readily supplied.

I am, &c.

(Signed) S. R. NETTLETON,
Assistant Treasury Agent.

CHARLES J. GOFF, Esq.,
United States Treasury Agent in charge of Seal Island.

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3. *Report of A. W. Lavender.*

OFFICE OF SPECIAL AGENT, TREASURY DEPARTMENT,
St. George Island, August 25, 1890.

SIR: I have the honour to report to you that on the 14th August, and while the
ited States revenue-steamer "Rush" was lying at anchor off our village, a schooner
ne in sight close in to the east end of the island. This was at 5.30 P. M. The
ush" at once got under way and steamed towards him, and followed him in to the
horage in front of the village, where she lay all night between the cutter and the
re. She proved to be the American schooner "Nettie Martin," Captain Ohlmitz,
onging to Kodiak. She is about 16 tons measurement, and has a crew of four
ite men and four Kodiak natives. She had on board ten sacks of salt and four

shot-guns, also two sea-otter boats. The captain said that he was from Kusoquim, bound to Oonalaska. His papers show that he had cleared from Kodiak on the 20th June, bound on a trading and coasting voyage along the coast of Alaska, and
49 for a further excuse he said that he was short of provisions, and the wind had been blowing so long from the south that he must be supplied.

I did not take any stock in what he said, and would not allow him to come on shore, and told him that the cutter could supply him with all the provisions he required. I believed him to be a seal poacher, but there was nothing on board that we could attach. We were obliged to let him go, for which I have been mad at myself ever since, and as I had men watching the East Rookery, the only place where he could land upon the island, I had no fear of his ever going on shore; but early on the morning of the 15th I sent extra men around the island from Garden Cove to the eastward, and under the high bluffs at the east end of the island, about 2 miles from East Rookery, they found four dead cows and four dead pups, also three clubs, one of which was broken. These were made of drift wood, and two of them had a little flesh upon them. At this time of the year the cows and pups are scattered along the rocks on most all parts of the sea-shore of the island, and by chance the boat's crew that landed came upon a few of these, which they killed, and the schooners, while beating to windward to get into an anchorage under the high cliffs, came in sight from the cutter, and it is my opinion that the men on shore got into their boat as soon as they could and went on board the schooner.

They did not take any seal with them, and had to get out of the scrape the best they could, which they did to perfection. Had the schooner not been away at the time the natives brought the clubs into the village, I would have had them caught, but the schooner and cutter both being gone, I could do nothing but kick. If I again come across Captain Ohlmitz this far, I will endeavour to make it uncomfortably warm for him. If he had landed upon East Rookery he would have done some damage. It was blowing very hard at the time, and I have no doubt but he intended to anchor close under the cliffs, and go upon the rookery at night and get all the seals he could.

Since that time I have established a watch-house at Garden Cove, and keep two men there all the time. No vessels can come near the island on either side without being seen. There never was a watchman at Garden Cove before.

The seal are very scarce on this island, and in order to get enough for food for the natives I am obliged to kill seal whose skins will not weigh over 4½ to 5½ lbs., and these the Company will not accept, and I am salting them for Government account, and shall probably have some 600 or 700. They are all good skins. Please obtain an order from the Secretary to ship them on one of the first Government vessels going to San Francisco the next season. I also request that you obtain permission to purchase a new carpet for the Government House on this island, as the carpet we now have on the floor is nearly worn out. Also please obtain from the Department for this island the following seeds: 4 lbs. good turnip seed, 4 lbs. good lettuce seed, and 4 lbs. good radish seed. I have never seen vegetables grow better in my life than they do here, and it would surprise you to see now what a fine bed of lettuce and radishes we have here now. In obtaining the seed, please get seed that has been grown as far north as possible. The natives of the island are a much superior race of people to what I expected to find, and I do not anticipate any trouble here this winter.

I am, &c.

(Signed) A. W. LAVENDER,
Assistant Treasury Agent.

CHARLES J. GOFF, Esq.,
Treasury Agent, Clarksburgh, Washington, Virginia.

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50 *4. Report of A. W. Lavender.*

OFFICE OF SPECIAL AGENT, TREASURY DEPARTMENT,
St. George Island, October 24, 1890.

SIR: I have the honour to report to you that United States revenue-steamer "Bear" returned to this island on the 22nd instant from Oonalaska unexpected to us here. Captain Healy told me that orders had been sent from the Department to watch the rookeries very close, as there had been two schooners cleared from Victoria for Behring's Sea, and that they were going to raid these islands. I have not seen a schooner around here since I last wrote you, nor do I think that there is a single schooner taking seals in Behring's Sea at this writing, and unless they come within the next two weeks there will not be any seal upon the rookeries for them to kill. I have again to request you to do your best to obtain arms and ammunition for these islands, and hope that you will be able to secure them, for without them the rookeries cannot

be protected in a proper manner. The old rifles that answered for the protection of the rookeries belong to the natives, and are of but little use. In addition to the five rifles owned by the natives, the Company has found small Colt's rifles and one large Sharp's, with very little ammunition for any of them.

We have had three deaths here this last week, all three females. At this writing every adult native on this island is either sick in bed or convalescent. Both church and school have been closed for the last two weeks, and I have been obliged to have boys only on guard at the rookeries. I think that the worst is now over, and do not apprehend that we shall have more deaths. There has not been any sickness among the white men up to this date, and everything upon the island is going along smoothly. On account of so much sickness, I have been obliged to issue coal to the natives sooner than I should have done under more favourable conditions, for these people must be provided with more fuel now that the catch of seal is so small they cannot secure near blubber enough, with what little drift wood they can collect, to last them through the winter, and to purchase coal from the Company at 30 dollars per ton of 2,000 lbs. is more than they can stand out of their earnings for killing seal. Their houses are small, with only two rooms each, and with a large family to be all sick at one time is almost certain death with nothing more to keep them warm than the few pounds of coal furnished them by Government, and the little water-soaked drift wood that they have been able to pick up around the island and bring home on their backs, for they have no other means of transportation; the fact is that the only places that drift wood can land upon this island is at the breeding rookeries, where they are not allowed to go during the season when the seals are there, and it is my opinion that these islands will soon be depopulated unless the Government comes to their rescue, for the few seal they will be able to kill here the next few years will not keep them from suffering.

Of Captain Healy, of the "Bear," and Captain Calson, of the "Rush," I cannot speak but in the highest terms. These gentlemen have been very courteous and obliging to the Government officers in charge of these islands, and have also extended all possible favours to the Company agents when it was not interfering with their instructions.

The weather here the past month has been very bad, and we have had three very heavy gales of wind, so that I cannot think it possible that a schooner should stop in Behring's Sea at this season of the year.

But I do think that they will follow the seal into this sea very early in the spring. As the seal begins to come upon the rookeries the last of April, I think the schooner will follow them very close. I would suggest that you place this letter before the Secretary, as well as my letters to you under the following dates, 14th August, 10th September, and 1st October, that he may know the true state of affairs upon this island.

Very respectfully, &c.

(Signed) ALBERT W. LAVENDER,
Assistant Treasury Agent.

CHARLES J. GOFF,
Treasury Agent, Clarksburgh, Washington, Virginia.

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51 5. *Report of A. W. Lavender*

OFFICE OF SPECIAL AGENT, TREASURY DEPARTMENT,
St. George Island, October 30, 1890.

SIR: I have the honour to report to you that the United States revenue-cutter "Bear" is still in these waters, and at this writing is lying at anchor at Zapadine.

We have not seen but one schooner since the 18th ultimo, and that was the whaling-schooner "Alton," which anchored at Garden Cove to secure brine boats previous to leaving these waters for San Francisco. The only enemy the seal and seal-pups have around these islands now is the kitten whales, which are in large schools destroying pups in large numbers.

We have had very severe weather here most all the year, and I cannot think it possible that there is a sealing-schooner on Behring's Sea at this time.

The natives are most all on the improve, and we have only had one death since I last wrote you, and that was a young girl of 11 years old, and she died with scrofula and general debility.

The natives on these islands must have more furs, or they will suffer next season much more than they will this, as most of them have a little money to purchase wood, three sticks for 60 cents. They should have at least 70 tons of coal for this island alone; drift wood is very scarce, and they have no blubber this season.

The Secretary, in his instructions, should say how many rations are to be furnished to the widows and orphans on this island for every week in the year, and this also should be left in the hands of the officers in charge.

The seal are nearly all gone from the rookeries now, and it is almost impossible to get enough for native food.

I shall have about 600 rejected skins here in the spring, for which please get orders to ship on one of the first ships that goes down.

The Company will not take skins less than 6½ lbs., which is the cause of my having so many rejected. In order to get enough for food, I have been obliged to kill small seal.

I hope that you will be able to secure arms and ammunition for these islands, as they are needed here very badly, I will assure you.

If it is possible to change the school system here, it should be done, as the schools here now are only a farce, and I think if they were put under the charge of the Rev. Sheldon Jackson that it would be a big improvement; in fact, there could be no change that would not be for the better.

It looks strange to me that after twenty years' teaching that there is not a single one of the scholars on this island that can speak English, and most of them have no knowledge of the world outside of these islands. Hoping to see you up here early the coming season.

(Signed) ALBERT W. LAVENDER,
Assistant Treasury Agent.

CHARLES J. GOFF, Esq.,
Treasury Agent, Clarksburgh, Washington.

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6. *Report of A. W. Lavender.*

OONALASKA, *March 19, 1890.*

MY DEAR SIR: I am in receipt of yours of this date, asking me to visit the condemned schooner now lying near the head of this harbour, and to make you a Report as to the valuation of each one when new, also the present condition and valuation of each one as they now remain; and, in reply to same, I will say that upon receipt of yours of even date I went at once on board the steam-schooner "Thornton," of Victoria, British Columbia, and found her to be a small steam-schooner of about 45 tons measurement, built of soft wood, mostly Oregon pine, her engines about eight-horse power, her bottom yellow metalled; all her running gear was down in her hold among iron rust and dirty water, and of no value whatever. I did not find any sails on board, her anchors and chains are both attached to her, but are very light and rusty, most of her small spars are gone. I should think, when new, that 7,000 dollars would be a fair price for her, including her engines and all other accoutrements, ready for sea. Her present value is nothing more than her old rigging and metal would sell for, less freight and expenses, and 200 dollars would be a good price for her.

From the "Thornton" I went on board the schooner "Carolina," of Victoria, 52 British Columbia, and found her to be a small keel vessel of about 32 tons.

The running gear was all down in the hold among iron rust and sea water, and is of no earthly use; her main boom and gaff and boom to the jib were all the small spars I could find belonging to her, only one small anchor and chain was on board, which is covered with rust, and is very small and of little value; her standing rigging is of wire, and, I should say, that when new and ready for sea that her cost would not exceed 2,500 dollars at the outside. I did not see any of her sails on board. The present valuation is nothing more than she would sell for as firewood, and 25 dollars is more than I would be willing to pay, and more, in my opinion, than the Government will ever receive for her. She is built of soft wood, mostly Oregon pine.

From the "Carolina" I went on board the "Angel Dolly," of San Francisco, and found her to be a small centre-board schooner of about 40 tons measurement. The main masthead was broken off, the standing rigging is of wire. The running gear was down in the hold, and in the same condition as that on the "Carolina" and "Thornton;" all her small spars are on board, both anchors and chains are attached. There were none of her sails on board. She probably cost when new 3,000 dollars all ready for sea; her present value is very little, and 100 dollars would be a good price for her as she now lies. She is also built of soft wood. The water rises and falls in her and in all the others as the tide ebbs and flows. I understand that her sails are in the Government warehouse here, also three of her boats.

From the "Angel Dolly" I visited the schooner "Onward," of Victoria, British Columbia, and found her to be a small two-masted schooner of about 35 tons, with

hemp rope standing rigging; her small spars are on board, both anchors attached and in fair condition; her running gear was down in the hold, and worthless as the rigging of the other three schooners; there were none of her sails to be found on board. I should say that this schooner was built in Nova Scotia; she is made mostly of soft wood, principally pine, and when new was a fine little vessel, and probably cost ready for sea about 4,500 to 5,000 dollars. At the present time she is almost worthless, and I do not think that she would sell for more than 200 dollars, although she could be made, with about 1,000 dollars paid out in repairs, a vessel that would sell for about 2,500 dollars, provided her sails are in good condition. I also found nine canoes on the shore near the schooner which belongs to some of them, but, like the vessels, have gone to ruin through want of care. Should you require a more detailed Report than this please let me know, and on my return to Oonalaska I will be pleased to make it for you; and in the meantime I remain, &c.

(Signed) ALBERT W. LAVENDER,
Assistant Treasury Agent.

CHARLES J. GOFF, Esq.,
Chief Treasury Agent, Seal Islands.

No. 2.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 21.)

WASHINGTON, *May 11, 1891.*

MY LORD: With reference to my telegram of yesterday, I have the honour to inclose an extract from the Cleveland "News and Herald" of the 4th instant, purporting to give the full text of Professor Elliott's Report to the Secretary of the Treasury, dated the 17th November last, on the condition of seal life at the Pribyloff Islands during the summer of 1890.

Your Lordship will remember that Professor Elliott was appointed Special Commissioner for the purposes of the above inquiry by Act of Congress, and that, as stated in my despatch of the 20th February last, his Report was not included among those of the other Government Agents which were transmitted to the Senate by the Secretary of the Treasury on the 9th February. It has not been yet officially published.

I am informed that the document published in the inclosed extract from the Cleveland "News and Herald" is incorrectly styled Professor Elliott's Report, and that it is only the introduction to his Report in the form of a letter to the Secretary of the Treasury.

The report itself is a much more voluminous document, but the introduction gives its substance and its recommendations.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 2.]

Extract from the "Cleveland Leader and Morning Herald" of May 4, 1891.

[Special Despatch to the "Leader."]

WASHINGTON, *May 3, 1891.*

The negotiations between Secretary Blaine and the British Minister for the settlement of the Behring's Sea troubles are likely to be resumed as soon as the "Sayward" case, taken into the United States Supreme Court from the District Court of Alaska, is disposed of. Mr. Blaine is now in possession of exact and reliable information as to the condition of the sealing industry not at his disposal before, and which cannot fail to impress the British Minister, Lord Salisbury, and everybody else, with the necessity of an immediate enforcement of the policy adopted by our

Government in seeking to prevent the killing of seal in the open waters of Behring's Sea. The information referred to shows a good deal more than that. It shows, what was perhaps unexpected, that the threatened extermination of the seal is due in large part to the legalized driving and killing on land by the lessees of the sealing grounds, which must also be suspended if seal life is to be preserved. With these facts established by evidence that no one can dispute, there ought to be no great difficulty in effecting an agreement between the United States and Great Britain for the immediate prohibition of any seal-killing by anybody the coming season, and a subsequent arrangement that will avoid any further conflict over this question.

When the "Sayward" case was appealed to the United States Supreme Court, the negotiations were in what appeared to be a confused and unsatisfactory state. Sir Julian Pauncefote had embarrassed Mr. Blaine by quoting President Cleveland's Special Agent at the sealing grounds, Mr. George R. Tingle, who affirmed before a Committee of Congress that the seal was increasing in number, and that the rookeries were never in better condition; and Mr. Blaine was dilating at length upon the historical rights of the United States in Behring's Sea. But he was quietly doing a good deal more than that. He was having the actual condition of affairs at the sealing grounds thoroughly investigated by Professor Henry W. Elliott, of the Smithsonian Institution, a Special Commissioner appointed in pursuance of the Act of Congress approved on the 5th April, 1890, who is the best living authority on seal life; so that he might be able to demonstrate the falsity, or gross inaccuracy, of Mr. Tingle's testimony, which could not be refuted in any other way.

Following is Professor Elliott's Report, submitted to the late Secretary Windom, in November last, and which is now made public:

CLEVELAND, OHIO, *November 17, 1890.*

Hon. WILLIAM WINDOM, *Secretary of the Treasury.*

SIR: On the 7th April last I received from your hands my appointment as the Special Agent created in Act of Congress, approved the 5th April, 1890: this Act orders and provides for a thorough examination into the present status of the fur-seal industry of our Government as embodied on the seal islands of Alaska, so as to make known its relative condition now as compared with its prior form and well-being in 1872, and for other kindred lines of inquiry.

I may as well frankly confess at the outset that I was wholly unaware of the extraordinary state of affairs which stared me in the face at the moment of my first landing, last May, on the seal islands of Alaska. I embarked upon this mission with only a faint apprehension of viewing anything more than a decided diminution of the Pribyloff rookeries, caused by pelagic sealing during the last five or six years.

But from the moment of my landing at St. Paul's Island on the 21st May last until the close of the breeding season those famous "rookeries" and "hauling grounds" of the fur-seal thereon, and of St. George's Island, too, began to declare and have declared to my astonished senses the fact, that their utter ruin and extermination is only a question of a few short years from date unless prompt and thorough measures of relief and protection are at once ordered on sea and on land by the Treasury Department, and enforced by it.

Quickly realizing, after my arrival upon these islands, that a remarkable change for the worse had taken place since my finished work of 1874 was given to the public in that same year and the year also of my last survey of these rookeries, I
54 took the field at once, carrying hourly and daily with me a series of note books opened under following heads:

1. The "rookeries," their area, position, and condition, in 1872, 1874-90.
2. The "hauling grounds," their appearance in 1872, 1874-90.
3. The method of "driving" and taking fur-seals in 1872, 1874-90.
4. The selection of skins, grade, and supply, in 1872, 1874-90.
5. Character, condition, and number of natives in 1872, 1874-90.
6. Conduct of native labour and pay in 1872, 1874-90.

To these heads I add the following sections in their order as mentioned, thus constituting the full body of my Report, which is preceded by this letter of transmissal:

7. The protection and preservation of these fur-bearing interests of our Government on the Pribyloff Islands, the immediate action necessary, viewed in the full light of existing danger.

8. Appendix, in which the author's daily field notes appear, *verbatim et literatim*, in order of day and date.

9. Revised general Maps of St. Paul and St. George, showing the area and position of the hauling grounds of the fur-seal thereon in 1872-74, and again in 1890.

10. A series of special Maps showing the exact topography, area, and position of the breeding rookeries of St. Paul and St. George Islands in 1872-74, and again in 1890, together with an illustration of each rookery drawn from life by the author.

Although I was unable to detect any sign of existing danger or injury to these interests of our Government on these Islands of Pribyloff in 1872–74, yet the need of caution on the part of the Agents of the Government and their close annual scrutiny was pointed out and urged in my published work of 1874* in the following language (pp. 75–77):

"Until my arrival on the seal islands, April 1872, no steps had been taken towards ascertaining the extent or the importance of these interests of the Government by either the Treasury Agent in charge or the agent of the Company leasing the islands. This was a matter of no special concern to the latter, but was of the first importance to the Government. It had, however, failed to obtain definite knowledge upon the subject on account of the inaccurate mode of ascertaining the number of seals which had been adopted by its agent, who relied upon an assumption of the area of the breeding 'rookeries,' but who never took the trouble to ascertain the area and position of these great seal grounds intrusted to his care.

"After a careful study of the subject during two whole seasons, and a thorough review of it during this season of 1874, in company with my associate, Lieutenant Maynard, I propose to show plainly and in sequence the steps which have led me to a solution of the question as to the number of fur-seals on the Pribyloff Islands, together with the determination of means by which the Agent of the Government will be able to correctly report upon the condition of the seal-life from year to year.

"At the close of my investigation for the season of 1872, the fact became evident that the breeding seals obeyed implicitly a fine instinctive law of distribution, so that the breeding ground occupied by them was always covered by seals in an exact ratio, greater or less to the area to be held; that they always covered the ground evenly, never crowding in at one place and scattering out at another; that the seals lay just as thickly together where the rookery was a small one of only a few thousand as at 'Nah Speel,' near the village, as they did where a million of them came together as at North-east as Point.

"This fact being determined, it is at once plain that, just as the breeding grounds of the fur-seal on these islands expand or contract in area from their present dimensions, so the seals will have increased or diminished.

"Impressed, therefore, with the necessity and the importance of obtaining the exact area and position of these breeding grounds, I surveyed them in 1872–73 for that purpose, and resurveyed them this season of 1874. The result has been carefully drawn and plotted out, as presented in the accompanying Maps.

"The time for taking these boundaries of the rookeries is during the week of their greatest expansion, or when they are as full as they are to be for the season, and before the regular system of compact even organization breaks up, the seals then scattering out in pods or clusters, straying far back, the same number covering then twice as much ground in places as they did before, when marshalled on the rookery ground proper; the breeding seals remain on the rookery perfectly
55 quiet, and *en masse*, for a week or ten days during the period of greatest expansion, which is between the 10th and 20th July, giving ample time for the agent to correctly note the exact boundaries of the area covered by them. This step on the part of the Government officer puts him in possession every year of exact data upon which to base a Report as to the condition of the seal-life as compared with the year or years previous. In this way my record of the precise area and position of the fur-seal breeding grounds on St. Paul's Island in the season of 1872, and that of St. George in the season of 1873, correctly serves as a definite basis for all time to come upon which to found authoritative Reports from year to year as to any change, increase, or diminution of the seal life. It is, therefore, very important that the Government should have an Agent in charge of these novel and valuable interests, who is capable, by virtue of education and energy, to correctly observe and report the area and position of the rookeries year by year."

Therefore, in the light of the foregoing you will observe that, although I was unable to detect myself any danger to or diminution of the seal life on the Pribyloff Islands after three seasons of close study in the field, ending with the season of 1874, yet I was deeply impressed with the need of an intelligent careful search every year for the signs of or real existence of such danger, that I urged the Department to select men who were fit to make such a search, and who could be trusted to do it honestly and thoroughly. I made this request on the 16th November, 1874, as I gave in my detailed Report above cited to the Secretary of the Treasury, who ordered it to be published at once, and caused it to be widely circulated by the Department.

In 1872–74, I observed that all the young male seals needed for the annual quota of 75,000, or 90,000 as it was ordered in the latter year, were easily obtained every season, between the 1st June and the 20th July following, from the "hauling grounds"

*A Report upon the Condition of Affairs in the Territory of Alaska, by Henry W. Elliott, Special Agent, Treasury Department. Government Printing Office, 1875. (Pp. 277–80.)

of Tolstoi, Sukannon, and Zoltoi Sands, from these hauling grounds adjacent to the rookeries or breeding grounds of Tolstoi, Sukannon, Reef, and Garbotch, all of these points to supply being not more than 1¼ miles distant from the St. Paul village killing grounds, the Zoltoi drive being less than 600 feet away.

At North-east Point on this island Webster got all the seals desired towards filling the above-cited quota of 90,000 from that sand-reach between the foot of Cross Hill and the Big Lake sand drives on the north-shore beach.

Then, that immense spread of hauling grounds covered by swarms of young male seals, at Zapodnie, at South-west Point, at English Bay beyond Middle Hill west, at Polavina, and over all that 8 long miles of beach and upland hauling grounds between Sukannon Bay and Webster's House at Novostoshnoh—all of this extensive sealing area was not visited by sealing gangs, or spoken of by them as necessary to be driven from.

Therefore, when attentively studying in 1872–74 the subject of what was the effect of killing annually 100,000 young male seals on these islands (90,000 on St. Paul and 10,000 on St. George), in view of the foregoing statement of fact, I was unable to see how any harm was being done to the regular supply of fresh blood for the breeding rookeries, since those large reservoirs of surplus male life, above named, held at least just half of the young male seal-life then belonging to the islands: these large sources of supply were never driven from—never even visited by the sealers, and out of their overwhelming abundance, I thought that surely enough fresh male seal-life did annually mature for service on the breeding rookeries.

Therefore, when summing up in my published work of 1872–74, I was positive in declaring that although I was firmly convinced that no increase to the then existing number of seals on these islands would follow any effort that we might make (giving my reasons in detail for so believing), yet I was as firmly satisfied that as matters were then conducted, nothing was being done which would injure the regular annual supply of male life necessary for the full demand of the rookeries. I then declared "that provided matters are conducted on the seal island in the future as they are to-day, 100,000 male seals under the age of 5 years and over 1 may be safely taken every year from the Pribyloff Islands without the slightest injury to the regular birth rates, or natural increase thereon, provided also that the fur-seals are not visited by any plague, or pests, or any abnormal cause for their destruction, which might be beyond the control of men." ("Monograph of the Seal Islands of Alaska," p. 62.)

I repeatedly called attention to this fact in my published Report, that all of the killable seals required were easily taken in thirty working days, between the 14th June and the 20th July in every year, from those points above specified, and that those reservoirs of surplus male life at South-west Point, Zapodnie, English Bay, Polavina, Tonkie Mees, &c., were full and overflowing, that more than enough was untouched which sufficed to meet the demands of nature on the breeding
56 grounds. But to make certain that my theory was a good one, and would be confirmed by time, for I qualified my statement at that time as a theory only. I made a careful and elaborate triangulation of the area and position of the breeding grounds in 1872–73 on St. Paul and St. George Islands, aided and elaborated by my associate in 1874, Lieutenant Washburn Maynard, United States navy; this I did in order that any increase or diminution following our work could be authoritatively stated—that a foundation of fact and not assumption should exist for such a comparison of the past order with that of the present or the future.

Sixteen years have elapsed since that work was finished; its accuracy as to the statements of fact then published was at that time unquestioned on these islands, and it is to-day freely acknowledged there; but, what has been the logic of events? Why is it that we find now only a scant tenth of the numbers of young male seals which I saw there in 1872? When did this work of decrease and destruction, so marked on the breeding grounds there, begin, and how? This answer follows:

"1. From overdriving without heeding its warning first begun in 1879, dropped then until 1882, then suddenly renewed again with increased energy from year to year, until the end is abruptly reached, this season of 1890.

"2. From the shooting of fur-seals (chiefly females) in the open waters of the North Pacific Ocean and Behring's Sea begun as a business in 1886, and continued to date."

Thus the seal-life candle has been literally "burning at both ends" during the last five years.

That day in 1879 when it became necessary to send a sealing gang from St. Paul village over to Zapodnie to regularly drive from that hitherto untouched reserve was the day that danger first appeared in tangible form since 1870—since 1857, for that matter.

The fact then that that abundant source of supply, which had served so well and steadily since 1870–81, should fail to yield its accustomed return to the drivers—that fact ought to have aroused some comment—ought then to have been recorded by the officer in charge in behalf of the Government at the close of the season's work in

1882, but it did not; possibly, the gravity of the change was not then fully appreciated by the sealers themselves, either through ignorance or inattention.

But, when in 1882 it became absolutely necessary to draw from that time on until the end of the present season, heavily and repeatedly, upon these hitherto untouched sources of supply for the rookeries, in order to get the customary annual quota—at that time that fact, that glaring change from the prosperous and healthy precedent and record of 1870–81, should have been—it was ample warning of danger ahead; it seems, however, to have been entirely ignored—to have fallen upon inattentive or incapable minds; for not until the Report of 1889 from the Agent of the Government in charge, who went up in the spring of that year for his first season of service and experience—not until his Report came down to the Treasury Department has there been the slightest intimation in the annual declarations of the officers of the Government of the least diminution or decrease of seal-life on these islands since my work of 1874 was finished and given to the world.

On the contrary, strange as it may seem, all the Treasury Agents since 1879 have, whenever they have spoken at all, each vied with the other in their laudation of the "splendid condition of the rookeries," "fully up to their best standard," &c., and one Report in 1886 and 1887 declares a vast increase over the large figures which I published in 1872–74, which is again reiterated by the same officer in 1888.

But how could these gentlemen reconcile their statements with that remarkable evidence of the decrease in supply of young males from the records made and before them—staring them in the face—of 1872–74? When they saw and daily recorded the fact that sealing gangs were being daily sent out from the village, miles and miles away to hitherto undisturbed fields, for killable seals—the regular customary hauling grounds, then at the point of exhaustion, from which an abundant supply had been easily secured during the last thirty years, and grass growing all over the hauling grounds of 1871, how, indeed, did that fact escape their attention? It did, however; it was utterly ignored.

I can see now, in the light of the record of the work of sixteen consecutive years of sealing, very clearly one or two points which were wholly invisible to my sight in 1872–74. I can now see what that effect of driving overland is upon the physical well-being of a normal fur-seal, and, upon that sight, feel warranted in taking the following ground.

The least reflection will declare to an observer that, while a fur-seal moves easier on land, and freer than any or all other seals, yet, at the same time, it is an unusual and laborious effort, even when it is voluntary; therefore, when thousands of young male seals are suddenly aroused to their utmost power of land locomotion, over
57 rough, sharp rocks, rolling clinker stones, deep loose sand, mossy tussocks, and other equally severe impediments, they in their fright exert themselves most violently, crowd in confused sweltering heaps one upon the other, so that many are often "smothered" to death; and, in this manner of most extraordinary effort, to be urged along over stretches of unbroken miles, they are obliged to use muscles and nerves that nature never intended them to use, and which are not fitted for the action.

This prolonged, sudden, and unusual effort, unnatural and violent strain, must leave a lasting mark upon the physical condition of every seal thus driven, and then suffered to escape from the clubbed pods on the killing grounds; they are alternately heated to the point of suffocation, gasping, panting, allowed to cool down at intervals, then abruptly started up on the road for a fresh renewal of this heating as they lunge, shamble, and creep along. When they arrive on the killing grounds, after four or five hours of this distressing effort on their part, they are then suddenly cooled off for the last time prior to the final ordeal of clubbing; then when driven up into the last surround or "pod," if the seals are spared from cause of being unfit to take, too big or too little, bitten, &c., they are permitted to go off from the killing ground back to the sea, outwardly unhurt, most of them; but I am now satisfied that they sustain in a vast majority of cases internal injuries of greater or less degree, that remain to work physical disability or death thereafter to nearly every seal thus released, and certain destruction of its virility and courage necessary for a station on the rookery even if it can possibly run the gauntlet of driving throughout every sealing season for five or six consecutive years; driven over and over again as it is during each one of these sealing seasons.

Therefore, it now appears plain to me that those young male fur-seals which may happen to survive this terrible strain of seven years of driving overland are rendered by this act of driving wholly worthless for breeding purposes—they never go to the breeding grounds and take up stations there, being utterly demoralized in spirit and in body.

With this knowledge, then, the full effect of "driving" becomes apparent, and that result of slowly but surely robbing the rookeries of a full and sustained supply of fresh young male blood, demanded by Nature imperatively, for their support up to the standard of full expansion (such as I recorded in 1872–74),—that result began, it

now seems clear, to set in from the beginning, twenty years ago, under the present system.

Had, however, a check been as slowly and steadily applied to that "driving" as it progressed in 1879–82 upon those great reserves of Zapodnie, South-west Point, and Polavina, then the present condition of exhaustion, complete exhaustion of the surplus supply of young male seals, would not be observed—it would not have happened.

But, however, no attention was given whatever to the fact that in 1882 the reserves were suddenly, very suddenly, drawn upon, steadily and heavily for the first time, in order that a prompt filling of the usual annual quota should be made before or by the usual time of closing the sealing season for the year, viz., 20th July; and until the Report for 1889, above cited, of the Treasury Agent in charge, came into the Treasury Department, not a suggestion ever had been made in official writing, from 1872–74 to that hour, of the slightest prospect even of the amazing diminution of seal-life which is now so painfully apparent.

Naturally enough, being so long away from the field, on reading Mr. Charles J. Goff's Report for the season's work of 1889, I at once jumped to the conclusion that the pelagic sealing, the poaching of 1886–88, was the sole cause for that shrinkage which he declared manifest on those rookeries and hauling grounds of the Pribyloff Islands—such a great shrinkage as to warrant him in the declaration which he makes in that Report, that he believes that not over 60,000 young male seals can be secured here in 1890, and if more can be, that they should not be taken.

Still, even then, charging it in this manner all to the poachers was not quite satisfactory to my mind. I could figure out from the known number of skins which these hunters had placed on the market a statement of the loss and damage to the rookeries—to the females and young, born and unborn, for that is the class from which the poacher secures 85 per cent. of his catch; and I was prepared to find by these figures that the breeding grounds had lost heavily, but that did not even then satisfy me as to his statement, which came so suddenly in 1889, that little more than half of the established annual quota of 100,000 hollenschickie suitable for killing could or would be secured here in 1890; for, great as my estimated shrinkage on the breeding grounds was, due to the work of the poachers, yet that would not, could not, explain to my mind the nine-fold greater shrinkage of that supply from the hauling grounds which must exist, or else 60,000 young males might be easily taken, judging from my notes of such work in 1872. Therefore, I landed here much confused in thought as to what I should observe.

58 I began at once, and finished by the 9th June, an entire new topographical survey and triangulation of the landed area of the seven rookeries of the St. Paul's Island and those of the St. George Island on the 19th and 20th July, so as to have these charts ready for instant use when the time came in which to observe the full form and number of the breeding seals as they laid upon this ground, viz., 10th to 20th July inclusive; thereafter until the closing of the season on St. Paul, 19th July, and on St. George up to 4th August, I have daily recorded the full details of the hauling, the driving, and the killing of seals there, the condition of the breeding animals, their arrival and behaviour, &c. A thousand varied incidents have been faithfully observed, as my field notes will testify, and which appear in all their detail in the following Appendix to this Report.

The present condition of these fur-seal preservers is nothing new to the history of their case while in the hands of the Russians. Twice before, in the comparatively short period of a century since they were first opened to the cupidity of man, have they been threatened with the same ruin that threatened them to-day; in 1806 and 1807 all killing was stopped to save them, but resumed again in 1808—too soon; for, after seventeen years of continual adoption of half-way measures, the full and necessary term of rest was given to them in 1834; the story of this "Zapooska" of the Russians in 1834, and the causes which led them to the threatened extermination of those fur-seal interests on the Pribyloff Islands, is one that is now timely in its repetition, and should be heeded.

When these islands were first discovered, in 1786–87, an indiscriminate rush was made to them by the representatives of every Russian trading organization then in Alaska—by every one then able to fit out a vessel and hire a number of men. These eager, greedy parties located on and near all of the large rookeries and hauling grounds, and killed as many as they could handle; in those days all the skins were air-dried and not salted, and that made the work of sealing then far slower and much more difficult than it is now, since the present system of salting skins practically offers no delay whatever to the work of killing and skinning. In my mind, there is no doubt but that this inability to cure rapidly the skins for shipment in 1786–1805, as fast as they could then be killed and skinned—not one-tenth as fast as they can be to-day,—that this delay alone saved the Pribyloff rookeries from utter extermination in those early days. Certainly it was and must have been the cause, for at least thirteen different trading organizations had their vessels and their men around, and

on these two islands of St. Paul and St. George engaged to their utmost ability throughout full seventeen years in unbroken succession in taking fur seal-skins.

Had these early Russian fur hunters then possessed the knowledge and means of curing skins in salt that we now have, together with those appliances in use to-day on the seal islands of Alaska, I am well satisfied in my own mind that they would have killed every fur-seal that remained to show itself in less than three years after they began operations—that they would have swept every animal from these grounds, long, long before the old Russian America Company assumed autocratic control of these interests in 1799, and all Alaska as well.

But fortunately for us, and the world as well, they did not know anything about curing skins in salt—they had but one method, and that was to stretch out the green skins and air-dry them upon frames in long low-drying houses, or in bright weather during August, September, and October to peg them out upon the ground.

Thus, this tedious process in a climate as damp, foggy, and stormy as is that peculiar to the seal islands of Alaska made these Slavonian sealers spend ten times as much time in the act of curing their fur-seal pelts as it took them to drive and kill; then, too, in those early days they were remote from a market, had no prompt, economical means of transportation to London, and depended wholly upon the idiosyncrasies of the Chinese trade viâ Kiachta; but even with this extraordinary hindrance, it seems that they took in that laborious and risky manner at least 100,000 fur seal-skins every year.*

They took so many that by 1803 several hundred thousand of these air-dried pelts had accumulated over the ability of the old Russian Company to dispose of them in time to prevent their decay—moulding and damp, then abruptly decaying—rotting in huge piles as they were stacked up in the warehouses at Kodiak, so "it became
59 necessary to cut or throw into the sea 700,000 pelts" during that year. Naturally this loss of labour, time, and money cooled the ardour of the sealing gangs which were working the Pribyloff Islands—they worked slower when they did work, and most likely never worked at all in wet weather; obliged to bow to the caprices of the climate or lose their labour, they were thus obliged to spare the seals, and this enforced delay in 1788–1806 has saved the Pribyloff rookeries from that swift destruction which the keen, quick-witted American and English sealers visited in 1806–26 upon the great breeding grounds of the fur-seal in the Antarctic; they, our countrymen, then used the kench and salt; they never were bothered with the question of how to dispose of their skins after killing and skinning so as to save them, and they brought their methods of 1806–26—the same methods of to-day—up to these seal islands of Alaska for the first time in 1868.†

No one can state, with more than mere estimation on his part, the full number of fur-seals slaughtered by the Russians on the Pribyloff Islands from 1786 to 1817; no lists, no checks whatever on it appear to have been made, and the record certainly never was made, since Bishop Veniaminov, who, from 1825 up to 1838 was at the head of all matters connected with the Church in this Oonalashka district, where the seal islands belonged, and who had the respect and confidence of the old Russian-American Company, made a zealous search for such a record in 1834–35 among the archives of the Company at Sitka, where he had full access; but the result of his painstaking search he sums up in the following terse statement: "Of the number of skins taken up to 1817 I have no knowledge to rely upon; but from that time up to the present writing I have true and reliable accounts," which he puts into the Appendix of his published work.‡

The Bishop (who is the only Russian who has given us the faintest idea of how matters were conducted in his time upon these islands) seems to have witnessed them in a steady condition of decline as to yield, for in the time of his writing and up to its closing in 1837 the record was one of steady diminution until 1834; the killing seems to have been permitted with all sorts of half measures since 1817, adopted one

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* "In the first years on St. Paul's Island from 50,000 to 60,000 were taken annually, and on St. George from 40,000 to 50,000 every year. Such horrible killing was neither necessary nor demanded. The skins were frequently taken without any list or count. In 1803, 800,000 seal-skins had accumulated, and it was impossible to make advantageous sale of so many skins, for in this great number so many were spoiled that it became necessary to cut or throw into the sea 700,000 pelts!"—(Bishop Veniaminov, "Zapieskie," &c., 1848, vol., chap. xii.)

†They began at once that system of disciplined exhaustive slaughter which has proved so effective in their hands throughout the Antarctic—took nearly 300,000 seal-skins on these islands in the short space of four months, ceased then only for want of salt; but, happily, the Government intervened before they could resume their work of swift destruction.

‡ "Zapieski ob Oonalashkenskaho Otdayla:" St. Petersburgh, 1842; 2 vols, 80. A full translation of that chapter which treats of this question will follow this introduction.

after the other, to no good result whatever; finally, however, the supply abruptly fell from an expected 20,000 to 12,000 only from both islands in 1834—"all that could be got with all possible exertion."

Then the Russians awoke to the fact that if they wished to preserve these fur-bearing interests of the Pribyloff Islands from ruin, that they must stop killing, wholly stop for a number of years—stop until the renewal of the exhausted rookeries was manifest, and easily recognized; this Zapooska of 1835, which they then ordered, is the date of the renewed lease of life which these rookeries took, and which by 1857 had restored them to the splendid condition in which they were when they passed into the hands of the United States; and which now, after twenty-two years of killing since 1868 and under the recent Regulations of 1870, together with the pelagic sealing since 1886, we find again threatened with speedy extinction unless full measures are at once adopted for their preservation and restoration on land, and in the sea—half measures will not do—they failed in the Russian period signally, and they will as signally fail with us if we yield in the slightest degree to any argument for their adoption.

It is interesting, therefore, to study the figures which Veniaminov gives us of the yield from these islands during that period extending down from 1817 to 1837—study it in connection with his statement of what those attempts were, and which were being made, futile efforts by the old Company to build up the business, and yet continue sealing; until, finally, after seventeen years of continual diminution and repeated introduction of half-way methods of restoration, the end came abruptly, and what ought to have been done at first was finally forced in 1834—the absolute rest of the rookeries in 1835 came, and practically continued until 1846-50; then a gradual rise above 10,000 "holluschickie" or young male fur-seals per annum began to be safely taken; and, by 1854, the exhausted and nearly ruined rookeries of St. Paul and St. George were able to yield 35,000 prime fur-seal pelts without the slightest injury to them, and by 1857-60 they were so numerous that the Russians ceased to regard them as objects of care, and thereafter governed their annual catch by the demand outside alone—taking as the market called for them anywhere from 40,000 to 80,000 annually.

As matters stand to-day on the seal islands the situation is very much the same as it was in 1834. Then it was expected that 20,000 seals would be taken, but only 12,000 were secured "with all possible exertion." This year it was expected that
60 60,000 fine skins would be taken, but only 21,000 have been secured with all possible exertion, nearly half this catch being small, or 5½–6½ lb. skins—raking and scraping the rookery margins without a day's intermission from the opening to the closing of the season; of this work of 1890 I give you in this Report the fullest detail of its progression, day to day, the merciful ending of it, ordered so happily by you.

It will be promptly observed from a study of this record of the Russians which has been so plainly and so honestly given to us by Veniaminov and Shaiesnickov, that the Russians, during their control, were faced at two periods with the prospect of a speedy extermination of these fur-seal rookeries of Alaska; in 1806 and in 1807 they stopped all killing on these Islands of St. Paul and St. George, but began to kill again in 1810—too soon. Veniaminov's record and account shows that from 1817, in spite of everything that they could do, save stopping short of all killing, "only made matters worse."

Finally, in 1834, with the second and positive threat of swift extermination again facing them, the Russians reluctantly surrendered, and ordered a rest which lasted seven years, ere any beginning was fairly made to kill more than a few thousand young male seals annually. In the first year only 100 of such animals were taken, the number being very slowly raised year after year until 1847-50.

A careful review of my investigation, therefore, warrants me in respectfully urging—

1. That no driving and killing of fur-seals for tax and shipment on the seal islands of Alaska be permitted by the Government for a period of at least seven years from date; and

2. That the co-operation of Great Britain and Russia be secured in perfecting our international close time, by which all killing of fur-seals in the open waters of Behring's Sea will be prohibited during the breeding season of these animals, and in order that the Representatives of Great Britain and Russia may see the truth of my statement as to what threatens to exterminate these animals if pelagic sealing as well as terrestrial sealing is not at once stopped; that a Commission of British, Russian, and American experts be invited to visit the seal islands next summer and report fairly upon the subject.

In concluding this introduction to my work of the past season, and its result, I desire to say that I have been exceedingly careful in gathering my data upon which I base all statement of fact and opinion, and to secure these data I have literally lived out upon the field itself, where those facts alone can be gathered honestly, or else they had better not be gathered at all.

I now submit, most respectfully, my detailed Report covering the above-mentioned heads, together with those field-sketches and maps which I deem necessary to give a more distinct, clear, and full idea of my meaning and understanding of the subjects treated.

Trusting that it will meet with your approval, I am, &c.

HENRY W. ELLIOTT.

To the above may be added, furnished by Professor Elliott, the following Table showing numbers of fur-seals on the breeding grounds of the Pribyloff Islands, Alaska, during 1872–74, and again in 1890:

Island.	Rookeries.	Seals, Male, Female, and Young, 1872–74.	Seals, Male, Female, and Young, 1890.
St. Paul	Reef	301,000	140,500
"	Garbotch	183,000	84,000
"	Lagoon	37,000	9,000
"	Tolstoi	225,000	62,400
"	Zapadnie	441,000	121,205
"	Ketavie	165,000	28,000
"	Lukannon	170,000	72,500
"	Polavina	300,000	142,000
"	North-East Point	1,200,000	217,875
"	Nahapeel	8,000	Disappeared.
St. George	Zapadnie	13,000	12,500
"	Starry Arteel	30,420	16,000
"	North	77,000	38,500
"	Little Eastern	13,000	4,800
"	Great Eastern	25,000	9,000
	Grand total	3,193,420	959,393

61 The grand total of 3,193,420 breeding seals and their young for 1872–74 represents a division of its sexes and ages of about 1,600,000 breeding females or "cows," 1,450,000 newly-born seals or "pups," and some 145,000 to 160,000 able-bodied virile males or "bulls" over 6 years of age (the proportion of farrow or "barren" cows too small for notice then).

The grand total of 959,393 breeding seals, male and female, for 1890 is divided into different proportions as to sex and age, owing to deadly causes at work on land and sea since 1874. The proportion of the above total for 1890 is 350,000 bearing females, and some 250,000 not bearing, or not served last year and this; 350,000 pups, and between 8,000 and 9,000 old males, many of them absolutely impotent at the beginning of the season of 1890, most of them becoming wholly so as the season advanced.

In 1872–74 Elliott and Maynard estimated the number of surplus young males or "killable" seals at 1,500,000; this year of 1890 Elliot makes a rigid calculation which shows a scant 100,000 males left above 1 year old.

UNITED STATES. No. 3 (1892).

FURTHER CORRESPONDENCE

RESPECTING THE

BEHRING SEA SEAL FISHERIES.

[In continuation of "United States No. 2 (1891):" C. 6368; and including the Papers contained in "United States Nos. 1 and 2 (1892):" C. 6633 and 6634.]

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HER MAJESTY.

APRIL, 1892.

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89	Sir J. Pauncefote.....	.....	June 27	Refers to No. 78. Memorandu structions to British naval acknowledged by United Sta ernment.
90	To Sir J. Pauncefote..	Telegraphic..	July 9	Answer to No. 85. Joint Com Agreement accepted by Her ty's Government.
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93	.....do	.....	....do ...	Telegram sent to Governor-Ge reply to above.
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96	Colonial Office	.....	....do ...	Assent of Her Majesty's Gov to Russian proposals conditi the agreement of the United
97	Sir R. Morier	.....	July 7	M. de Giers' reply to notes tran in No. 41.
98	.....do	.....	July 9	Copy of note to M. de Giers in t of No. 88.
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103	Sir G. Baden-Powell ..	.....	July 5	Paraphrase of telegram request mit to visit Russian islands.
104	Sir R. Morier	Telegraphic..	July 17	Instructions will doubtless be Governor of Vladivostock t facilities to our Commissione
105	To Sir R. Morier.....	.....	....do ...	Acknowledges No. 97. Her M Government do not think th an arrangement as that prop M. de Giers would be desirabl
106	Behring's Sea Commissioners.	.....	July 7	Acknowledges No. 62 .....
107	.....do	.....	....do ...	Acknowledges No. 74. Copy o from Treasury Department, W ton, giving permission to v Pribyloff Islands.
108	Colonial Office	.....	July 21	Copy of despatch from Govern eral of Canada reporting the tion of the Agreement for *vivendi*.
109	Behring's Sea Commissioners.	.....	July 9	Information required from J Government.
110	Sir J. Pauncefote	.....	July 14	Copy of note to Mr. Wharton i of No. 99.
111	.....do	Telegraphic..	July 23	Refers to No. 110. Summary from United States Governm closure in No. 117, *infra*.).
113	To Mr. Fraser.....	.....do.....	July 24	Asks for information requested 109.
114	Sir R. Morier.....	.....	July 22	Copy of note to M. de Giers in No. 105.
115	To Sir J. Pauncefote..	.....	July 27	Approves No. 110 .....
116	Mr. Howard	Telegraphic..	July 29	Refers to No. 104. Russian Gov have given necessary permis British Commissioners to v Russian seal fisheries.
117	To Mr. Howard.....	.....	July 31	Acknowledges No. 115. To tha sian Government.
118	Sir J. Pauncefote.....	.....	July 24	Copy of reply from United Stat ernment to note of 13th July No. 110.)
119	Mr. Howard	.....	July 29	Refers to No. 115. Copy of no M. de Giers.
120	Colonial Office	.....	Aug. 1	Copy of despatch from Govern eral of Canada on Mr. Hawkin (No. 2).
121	Behring's Sea Commissioners.	.....	July 16	Report of proceedings.....

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Sir J. Pauncefote..	Telegraphic..	Aug. 12	Refers to No. 118. Her Majesty's Government cannot accept doctrine implied in modification of the VIIth Article as proposed by Mr. Wharton.	76
.do	.....do.....	Aug. 22	To recapitulate grounds on which Her Majesty's Government cannot agree to modification of Article VII as explained in above, and make new proposal.	77
: G. Baden-Powell..	.....do.....	Aug. 5	Take of seals is in excess of 7,500.....	77
: J. Pauncefote.....	.....do.....	Aug. 23	Is writing unofficially to Acting Secretary of State in sense of No. 123.	77
) Sir J. Pauncefote..	.....do.....	Aug. 26	To inform United States Government of Sir G. Baden-Powell's report of excessive number of seals taken, and ask that the Agreement may be strictly observed.	77
r J. Pauncefote.....	.....	Aug. 20	President does not consider it necessary to raise question of mutual indemnities unless it should arise.	78
..do	.....	Aug. 28	Refers to No. 124. Private and unofficial letter to Mr. Wharton suggesting compensation clause.	79
..do	.....	....do ...	Inquiry from Mr. Wharton when reply as to compensation clause may be expected.	80
hring's Sea Commissioners.	.....	Aug. 5	Seals killed in excess of 7,500 limit. Result of inquiries, and letter to United States Treasury Agent.	80
..do	.....	Aug. 6	Reports visit to Pribyloff and other islands.	82
r J. Pauncefote.....	Telegraphic..	Sept. 8	Substance of private and unofficial note from Mr. Wharton respecting compensation clause (see No. 135).	82
lonial Office.....	.....	Sept. 10	Report by Minister of Marine and Fisheries relating to seal life on Pribyloff Islands.	83
) Behring's Sea Commissioners.	.....	Sept. 12	Approves proceedings reported in No. 130.	88
r J. Pauncefote.....	.....	Sept. 4	United States Government informed of excessive number of seals killed.	88
..do	.....	Sept. 10	Private and unofficial note from Mr. Wharton. President's reply to proposals in No. 123.	88
r G. Baden-Powell..	Telegraphic..	Oct. 8	Reports return of Commission to Esquimalt.	89
r J. Pauncefote.....	.....do.....	Oct. 12	United States Government press for reply to their note of 23rd July. Proposes replying officially in sense of private letter to Mr. Wharton of 26th August (see No. 127).	89
) Sir J. Pauncefote..	.....do.....	Oct. 15	Answer to above. To proceed as proposed.	89
lonial Office.....	.....	Oct. 16	Communications with British Columbia Sealers' Association.	90
hring's Sea Commissioners.	.....	Sept. 17	Report visit to Russian islands.....	91
..do	.....	....do ...	Report of proceedings up to date.....	92
r J. Pauncefote.....	Telegraphic..	Oct. 19	Refers to Nos. 137 and 138. Alternative proposals of United States Government respecting compensation clause.	93
emorandum by Sir G. Baden-Powell.	.....	Aug. 10	Limitation of catch of fur-seals under *modus vivendi* Agreement.	93
) Sir J. Pauncefote.	Telegraphic..	Oct. 20	Answers No. 142. Second clause suggested by United States Government accepted.	97
r J. Pauncefote.....	.....do.....	....do ...	Asks if Joint Commission Article may be signed.	97
) Sir J. Pauncefote..	.....do.....	Oct. 21	Answers above. May sign Joint Commission Article.	97
r J. Pauncefote.....	.....	Oct. 12	Reply of United States Government respecting excessive number of seals taken, and observations thereon.	97
..do	.....	Oct. 13	Letter from Mr. Wharton pressing for reply to United States Government's note of the 23rd July (see No. 137).	101
..do	Telegraphic..	Oct. 23	Interchange of notes recording adoption of seven Articles of Arbitration. Agreement.	102
) Mr. Howard.....	.....	....do ...	To thank Russian Government for reception of British Commissioners on Russian islands.	102
olonial Office.....	.....	Oct. 26	Memorial from British Columbian Sealers' Association.	102

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152	Sir J. Pauncefote.....	.....	Oct. 19	Official reply sent to United States Govt. in reply to their note of 23rd July.	105
153	Colonial Office.....	.....	Oct. 29	Return of Behring's Sea Commissioners to Ottawa.	106
154	To Behring's Sea Commissioners.	.....	Oct. 30	Copy of reply of United States Government respecting excessive number of seals taken (see No. 147). Asks for observations.	106
155	To Sir G. Baden-Powell.	.....	....do ...	Acknowledges Memorandum on limitation of seal catch (see No. 143) with thanks.	107
156	Sir J. Pauncefote.....	Telegraphic..	Oct. 31	Proposals by Mr. Blaine for constitution of Tribunal of Arbitration.	107
157	Behring's Sea Commissioners.	.....	Oct. 14	Report of proceedings. Investigations completed.	107
158	.....do	.....	Oct. 19	Observations on excessive number of seals killed on islands.	108
159	.....do	.....	Oct. 21	Sends Memorial from Vancouver Sealers' Association, and reply.	108
160	Sir J. Pauncefote... .	.....	Oct. 23	Sends notes recording adoption of seven Articles of Arbitration Agreement.	108
161	To Colonial Office.....	.....	Nov. 2	Copy of No. 156. Asks views as to constitution of Arbitration Tribunal.	11
162	To Sir J. Pauncefote..	.....	Nov. 6	Approves note respecting seven Articles of Arbitration Agreement (see No. 160).	11
163	To Behring's Sea Commissioners.	.....	....do ...	Approves reply to Vancouver Sealers' Association (see No. 159).	1
164	.....do	.....	....do ...	Acknowledges No. 157. Approves proceedings.	1
165	Admiralty.....	.....	Nov. 10	Copy of Report from Commander-in-chief on Pacific Station. Proposes to approve proceedings of Commanders of "Nymphe," "Porpoise," and "Pheasant."	1
166	Sir J. Pauncefote.....	Telegraphic..	Nov. 16	Mr. Blaine's views as to choice of Arbitrators and place of sitting.	1
167	To Admiralty.....	.....	Nov. 19	Concurs in proposal conveyed in No. 165.	1
168	Sir J. Pauncefote.....	Telegraphic..	Nov. 21	Date appointed for signature of the Arbitration Agreement and Joint Commission Article. Suggested headings for these Articles.	1
169	To Sir J. Pauncefote..	.....do.....	Nov. 22	Authority to sign, making at the time two reservations in regard to Clause 6.	1
170	Sir J. Pauncefote.....	.....	Nov. 13	Copies of a narrative by a correspondent of the "New York Herald" of his voyage to Behring's Sea.	1
171	.....do	Telegraphic..	Nov. 24	Mr. Blaine's objections to reservations in No. 169, and inquiry as to the cessation of sealing after 1st May, pending the adhesion of the other Powers.	1
172	.....do	.....do.....	Nov. 27	Mr. Blaine's reply to reservations in No. 169 (Inclosure in No. 179, *infra*).	1
173	To Sir J. Pauncefote..	.....do.....	Nov. 29	Refers to No. 172. The first reservation may be waived. Suggests a provision to be substituted for the second reservation.	1
174	Sir J. Pauncefote.....	.....	Nov. 23	Copy of note to Mr. Blaine in sense of No. 169.	1
175	.....do	Telegraphic..	Dec. 3	Substance of Mr. Blaine's reply to proposal in No. 173.	1
176	Behring's Sea Commissioners.	.....	Nov. 25	Observations on correspondence transmitted in No. 154 respecting the number of seals killed on the Pribyloff Islands during season of 1891, in excess of 7,500.	
177	To Sir J. Pauncefote..	.....	Dec. 5	Approves terms of No. 174.....	
178	Sir J. Pauncefote.....	.....	Nov. 27	Further details of interview reported in No. 171.	
179	.....do	.....	Nov. 27	Mr. Blaine's reply to note in No. 174....	
180	To Sir J. Pauncefote..	Telegraphic..	Dec. 7	Refers to No. 175. Her Majesty's Government agree to drop the second reservation at this stage, retaining the right to raise the point before the Arbitrators.	
181	Sir J. Pauncefote.....	.....	Dec. 1	Copy of note to Mr. Blaine in sense of No. 173.	
182	.....do	Telegraphic..	Dec. 10	Substance of Mr. Blaine's reply to No. 180. Shall he sign agreement subject to reservation mentioned in No. 180?	
183	To Sir J. Pauncefote..	.....do.....	Dec. 11	Authority to sign as suggested in No 182.	
184	Sir J. Pauncefote.....	.....do.....	Dec. 14	Mr. Blaine's note objecting to any reservation.	

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185	To Sir J. Pauncefote..	Telegraphic..	Dec. 16	Did not make any reservation. Authority to sign the Agreement.	128
186	Sir J. Pauncefote.....	.....do.....	Dec. 17	Is addressing a note to Mr. Blaine as instructed in No. 185.	129
187	.....do	.....do.....	Dec. 18	Reports signature of Arbitration Agreement and Joint Commission Article.	129
188	.....do	.....	Dec. 10	Text of notes exchanged with Mr. Blaine on the subject of the proposed reservations to Article VI.	129
189	.....do	.....	....do ...	Extract from President's Message to Congress.	131
190	.....do	.....	Dec. 11	Note to Mr. Blaine in sense of Nos. 180 and 183.	132
191	.....do	Telegraphic..	Dec. 22	Mr. Blaine's suggestion as to the number of Arbitrators.	132
192	.....do	.....	Dec. 15	Text of Mr. Blaine's note of 14th December, and of Sir J. Pauncefote's reply.	133
193	.....do	.....	Dec. 18	Text of note to Mr. Blaine of 18th December. Reports signature of Arbitration Agreement and Joint Commission Article.	134
194	.....do	.....	....do ...	Text of the seven Articles of the Behring's Sea Arbitration Agreement, and of the Joint Commission Article as signed.	134
195	To Sir J. Pauncefote..	Telegraphic..	Dec. 29	To make it clear that Her Majesty's Government urge the appointment of seven Arbitrators.	136
196	.....do	.....do.....	Dec. 30	Can any date be fixed for the meeting of the Joint Commission?	136
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197	Sir J. Pauncefote.....	.....do.....	Jan. 2	Joint Commission can meet at the earliest date permitted by the other public duties of the American Commissioners.	136
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198	.....do	.....	Dec. 23	Census bulletin relating to marine mammalia fishing industry of United States.	136
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199	.....do	Telegraphic..	Jan. 4	President cannot consent to meeting of the Joint Commission until the remaining details of the Arbitration Agreement are settled.	137
200	.....do	.....do.....	Jan. 13	Mr. Blaine most anxious for the immediate meeting of the Joint Commission at Washington.	137
201	.....do	.....do.....	Jan. 14	Important that the British Commissioners should proceed to Washington at once.	137
202	To Sir G. Baden-Powell.	.....	....do ...	Desirable that he should proceed to Washington as soon as possible.	137
203	To Behring's Sea Commissioners.	.....	Jan. 15	Transmits Queen's Commission, and gives instructions.	138
204	Sir G. Baden-Powell..	Telegraphic..	Feb. 1	Arrival at Washington with Dr. Dawson.	138
205	Sir J. Pauncefote.....	.....do.....	....do ...	Reports arrival of British Commissioners.	139
206	.....do	.....	Jan. 29	Copy of note to Mr. Blaine of 21st January accepting proposal as to choice of foreign Arbitrators.	139
207	.....do	Telegraphic..	Feb. 8	Has forwarded a draft Arbitration Convention embodying Joint Commission. Mr. Blaine pressing for renewal of *modus vivendi*.	139
208	Behring's Sea Commissioners.	.....do.....	Feb. 9	Have begun informal meetings with American Commissioners.	139
209	Colonial Office.....	.....	Feb. 10	Suggests consulting Canadian Government as to renewal of *modus vivendi*.	140
210	Behring's Sea Commissioners.	.....	Jan. 29	Acknowledges No. 203. Are proceeding to Washington.	140
211	.....do	.....	Feb. 1	Report arrival at Washington.....	140
212	Sir J. Pauncefote.....	.....	Feb. 4	Text of draft Arbitration Convention proposed by Mr. Blaine.	141
213	.....do	.....	Feb. 5	Mr. Blaine pressing for another *modus vivendi*, to take effect from the expiration of the present one.	141
214	To Sir J. Pauncefote..	Telegraphic..	Feb. 16	Draft Convention submitted to Law Officers. Entire prohibition of sealing does not seem necessary.	142
215	Sir J. Pauncefote.....	.....do.....	Feb. 17	Mr. Blaine urges consideration of *modus vivendi* by Joint Commission. Can necessary authority be given?	142

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216	To Sir J. Pauncefote..	Telegraphic..	Feb. 18	Joint Commission may consi *vivendi*, but Her Majesty' ment must reserve right of
217	.....do	.....do.....	Feb. 20	Her Majesty's Government p accept draft Convention h subject to certain amendme
218	Behring's Sea Commissioners.	.....	Feb. 12	Began formal meetings on 11t
219	Lord Stanley of Preston to Lord Knutsford.	Telegraphic..	Feb. 23	Canadian Government have n tion showing necessity of *vendi*. If Her Majesty's Go have such information Can not object to zone of 25 miles panied by restrictions as to land.
220	Sir J. Pauncefote.....	.....do.....	Feb. 25	Communication made to Mr. sense of No. 214. Substanc ply pressing for *modus vive*
221	.....do	.....do.....	Feb. 26	Sends *verbatim* paragraph Blaine's note referred to in
222	.....do	.....do.....	....do ...	Opinion of British Commissi *modus vivendi*. No seriou depletion this year, but lim porary measure recommend
223	To Sir J. Pauncefote..	.....do.....	Feb. 27	Her Majesty's Government h formation to show necessity *vivendi* two years running. mise suggested in No. 222 m posed.
224	Sir J. Pauncefote.....	....do.....	Feb. 26	Mr. Blaine learns that forty-s have cleared for Behring's S
225	.....do	.....do.....	Feb. 27	Convention will be signed on
226	.....do	.....	Feb. 18	Notes exchanged with Mr. Bl the meeting of the Joint Co
227	.....do	.....	....do ...	Correspondence with Mr. B the British Commissioners a of Joint Commission to di question of a *modus vivend* season.
228	.....do	Telegraphic..	Feb. 29	Arbitration Convention sign exchange of ratifications t in Washington or London?
229	To Sir J. Pauncefote..	.....do.....	Mar. 1	Exchange of ratifications can out more quickly in Londo egraph when Convention is by Senate.
230	.....do	.....	Mar. 3	Approves proceedings report despatch of 18th February.
231	Sir J. Pauncefote.....	.....	Feb. 23	President has issued the Beh Proclamation in the same heretofore.
232	Sir G. Baden-Powell..	Telegraphic..	Mar. 4	Have signed Joint Report to-
233	Sir J. Pauncefote....	.....	Feb. 20	Text of notes summarized in
234	.....do	Telegraphic..	Mar. 8	Reply of United States Gove proposal in No. 223. Urges for *modus vivendi* in order t value of property pending tion.
235	To Sir J. Pauncefote..	.....do.....	Mar. 9	To repeat above to Governo of Canada.
236	Sir J. Pauncefote.....	.....do.....	....do ...	Convention sent to Senate and referred to Committee o Affairs.
237	.....do	.....	Mar. 1	Text of note to Mr. Blaine i No. 223.
238	Sir G. Baden-Powell..	Telegraphic..	Mar. 9	Expresses opinion that re *modus vivendi*, though not would be beneficial.
239	Sir J. Pauncefote	.....	Mar. 4	Text of Behring's Sea Arbitr vention as signed.
240	To Sir J. Pauncefote..	Telegraphic..	Mar. 15	To repeat to Governor-Gener ada telegram from Sir G Powell of 9th March.
241	.....do	.....do.....	Mar. 18	Answers No. 234. Renewal *vivendi*. May give groun plaint by British sealers if tors decide in their favo gests that sealing should b ted to vessels giving securi damages awarded by Arbit
242	Lord Knutsford to Lord Stanley of Preston.	.....do.....	....do ...	To direct port authorities on warn owners of vessels cleared, or are clearing, for Sea, that they do so at their

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243	Sir J. Pauncefote		Mar. 10	Note from Mr. Wharton of 8th March respecting *modus vivendi*. Substance telegraphed (see No. 234).	160
244	do	Telegraphic	Mar. 23	Communication made to United States Government in sense of No. 241. Reply received stating that renewal of *modus vivendi* is the least that can be accepted, and that United States Government must maintain their rights.	163
245	To Sir J. Pauncefote	do	Mar. 26	Two alternative proposals by Her Majesty's Government as to the conditions on which sealing might be prohibited this season.	165
246	do	do	do	Proposed form of reference to Arbitrators of question of damages.	165

APPENDIX.

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	Colonial Office		Mar. 2	Despatch from Canada, with Order in Council, and affidavits from British Columbia respecting pelagic sealing.	166

FURTHER CORRESPONDENCE RESPECTING THE BEHRING SEA SEAL FISHERIES.

[IN CONTINUATION OF "UNITED STATES No. 2 (1891):" C. 6368.]

No. 1.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 27.)

WASHINGTON, *April 15, 1891.*

MY LORD: I have the honour to transmit herewith a copy of a note which I received yesterday from Mr. Blaine in reply to your Lordship's despatch of the 21st February last,* of which I left a copy in his hands on the 3rd March.

In this note Mr. Blaine states that the modifications suggested by your Lordship in the questions for arbitration do not wholly meet the views of the President, and he sets out the questions in the form in which they are now proposed by him.

For convenience of reference, I inclose a paper showing, in opposite columns, the original six questions suggested by Mr. Blaine in his note of the 17th December last, and the questions, as altered and now proposed by him, on behalf of the United States' Government. In his note transmitted herewith Mr. Blaine reverts to several points which have been long under discussion, and adduces further arguments in support of his contentions.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 1.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, April 14, 1891.*

SIR: The modifications which Lord Salisbury suggests in the questions for arbitration do not wholly meet the views of the President, but the President changes the text of the third and fifth in such manner, it is hoped, as will result in an agreement between the two Governments. While Lord Salisbury suggests a different mode of procedure from that embodied in the sixth question, the President does not understand him actually to object to the question, and he therefore assumes that it is agreed to.

The six questions as now proposed by the President are as follows:

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

* "United States No. 1 (1891)," p. 87.

2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia, and what rights, if any, in the Behring's Sea were held and exclusively exercised by Russia after said Treaty?

2 4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in the Behring's Sea east of the water boundary in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. Has the United States any rights, and, if so, what right, of protection or property in the fur-seals frequenting the islands of the United States in Behring's Sea when such seals are found outside the ordinary 3-mile limit?

6. If the determination of the foregoing questions shall leave the subject in such position that the concurrence of Great Britain is necessary in prescribing Regulations for the killing of the fur-seal in any part of the waters of Behring's Sea, then it shall be further determined (1) how far, if at all, outside the ordinary territorial limits it is necessary that the United States should exercise an exclusive jurisdiction in order to protect the seal for the time living upon the islands of the United States, and feeding therefrom? (2) whether a close season (during which the killing of seals in the waters of Behring's Sea outside the ordinary territorial limits shall be prohibited) is necessary to save the seal-fishing industry, so valuable and important to mankind, from deterioration or destruction; and, if so, (3) what months or parts of months should be included in such season, and over what waters it should extend?

The President does not object to the additional question respecting alleged damages to English ships proposed by Lord Salisbury, if one condition can be added, namely, that after the issues of the arbitration are joined, if the United States shall prevail, all the seals taken by Canadian vessels during the period shall be paid for at the ordinary price for which skins are sold. This seems to the President to be the complement of Lord Salisbury's proposition, and he doubts not that it will secure his Lordship's assent. In the first paragraph of Lord Salisbury's despatch of the 21st February he makes the following declaration:

"It is now quite clear that the advisers of the President do not claim Behring's Sea as *mare clausum*, and, indeed, that they repudiate that contention in express terms."

Lord Salisbury's expression is put in such form as to imply (whether he so intended I know not) that the United States had hitherto been resting its contention upon the fact that the Behring's Sea was *mare clausum*. If that was his intention, it would have been well for his Lordship to specify wherein the United States ever made the assertion. The emphatic denial in my despatch of the 17th December last was intended to put an end to the iteration of the charge, and to eliminate it from the current discussion.

Lord Salisbury complains that I did not deal with certain protests, written by Lord Londonderry and the Duke of Wellington in 1822, which he had before quoted. If he will recur to the 26th and 27th pages of my despatch of the 17th December, he will observe that I specially dealt with these; that I maintained, and, I think, proved from the text that there was not a single word in those protests referring to the Behring's Sea, but that they referred, in the language of the Duke of Wellington of the 17th October, 1822, only to the lands "extending along the shores of the Pacific Ocean from latitude 49° to latitude 60° north. In the first paragraph of Lord Londonderry's protest of the 18th January, 1822, addressed to Count Lieven, of Russia, he alluded to the matters in dispute as "*especially* connected with the territorial rights of the Russian Crown on the north-west coast of America bordering on the Pacific Ocean, and the commerce and navigation of His Imperial Majesty's subjects in the seas adjacent thereto." From those and other pertinent facts it is evident that the protests of Lord Londonderry and the Duke of Wellington had nothing whatever to do with the points now in issue between the American and British Governments concerning the waters of the Behring's Sea. They both referred in different, but substantially identical phrases, to the territory south of the Alaskan Peninsula bordering on the Pacific, and geographically shut out from the Behring's Sea. I regret that my arguments on a point which Lord Salisbury considers of great importance should have escaped his Lordship's notice. In Lord Salisbury's judgment the contention of the United States now rests wholly upon the Ukase of 1821 by the Emperor Alexander I of Russia. The United States has at no time rested its arguments solely on the ground mentioned, and this Government regrets that Lord Salisbury should have so misapprehended the American position as to limit its basis of right in the Behring's Sea to the Ukase of 1821. The United States has, among other grounds, insisted, without recurring to any of its inherited and superior rights in Alaska, that this Government has as full authority for going *beyond* the 3-mile line in case of proved necessity as Great Britain possesses.

3 Two or three instances of the power which Great Britain exercises beyond the 3-mile line have already been quoted, but have failed thus far to secure comment or explanation from Lord Salisbury.

Another case can be added which, perhaps, is still more to the point. In 1889, only two years ago, the British Parliament enacted a Law the effect of which is fully shown by a Map inclosed herewith.

Far outside the 3-mile line the Parliament of Great Britain has attempted to control a body of water situated beyond the north-eastern section of Scotland, 2,700 square miles in extent, and to direct that certain methods of fishing shall not be used within that great body of water under a prescribed penalty. It will be observed that the inhibition is not alone against British subjects, but against "any person." I here quote the pertinent section of the Parliamentary Act in question:

"7.—(1.) The Fishing Board may, by Bye-law or Bye-laws, direct that the methods of fishing known as beam trawling and otter trawling shall not be used within a line drawn from Duncansby Head, Caithness, to Rattray Point, Aberdeenshire, in any area or areas to be defined in such Bye-law, and may from time to time make, alter, and revoke Bye-laws for the purposes of this section, but no such Bye-law shall be of any validity until it has been confirmed by the Secretary for Scotland.

"(2.) Any person who uses any such method of fishing in contravention of any such Bye-law shall be liable, on conviction under the Summary Jurisdiction (Scotland) Acts, to a fine not exceeding 5*l.* for the first offence, and not exceeding 20*l.* for the second or any subsequent offence, and every net set, or attempted to be set, in contravention of any such Bye-law may be seized and destroyed or otherwise disposed of as in the 6th section of this Act mentioned."

If Great Britain may thus control an area of 2,700 square miles of ocean on the coast of Scotland, why may not the United States prescribe a space around the Pribyloff Islands in which similar prohibitions may be in force? The following would be the needed legislation for such a purpose by Congress, and it is but a paraphrase of the Act of Parliament:

"The Fur Seal Board may, by Bye-law or Bye-laws, direct that the methods of sealing known as spearing or harpooning, or with fire-arms, shall not be used within a line drawn from the shores of the Pribyloff Islands 60 miles in the Behring's Sea; and said Board may from time to time make, alter, and revoke Bye-laws for the purpose of this section; but no such Bye-law shall be of any validity until it has been confirmed by the Secretary of the Treasury. Second. Any person who uses any such method of sealing in contravention of such Bye-laws shall be liable, on conviction, to a fine not exceeding 100 dollars for the first offence, and not exceeding 500 dollars for the second or any subsequent offence; and every spear, harpoon, or fire-arm attempted to be used in contravention of any such Bye-law may be seized and destroyed, or otherwise disposed of, as said Fur Seal Board may direct."

It must not escape observation that the area of water outside the 3-mile line on the coast of Scotland, whose control is assumed by Great Britain, is as large as would be found inside a line drawn from Cape Cod to Portland Harbour, on the New England coast.

Lord Salisbury reasserts his contention that the words "Pacific Ocean" at the time of the Treaty between Russia and Great Britain did include Behring's Sea. Undoubtedly the Pacific Ocean includes Behring's Sea in the same sense that the Atlantic Ocean includes the Gulf of Mexico, and yet it would be regarded as a very inaccurate statement to say that the Mississippi River flows into the Atlantic Ocean. I think Lord Salisbury fails to recognize the common distinction between the "Atlantic Ocean" and "the waters of the Atlantic." While the Mexican Gulf is not a part of the Atlantic Ocean, it would, I am sure, comport with general usage to say that it belonged to the waters of the Atlantic, and, while Behring's Sea is not technically a part of the Pacific Ocean, it undoubtedly belongs to the waters of the Pacific. The English Channel would not ordinarily be understood as included in the term "Atlantic Ocean." One would not say that Dover or Calais is on the coast of the Atlantic Ocean, and yet clearly the English Channel belongs to the waters of the Atlantic. In point of fact, therefore, according to the usage of the world, there is no dispute of any consequence between the two Governments on the geographical point under consideration. The historical point is the one at issue. The explanatory note from Russia filed in the State Department of this country, specially referred to in Mr. John Quincy Adams' diary and quoted in my note of the 17th December, 1890, plainly draws a distinction between the Pacific Ocean on the one hand, and the "Sea of Okhotsk, the Sea of Kamschatka, and the Icy Sea" on the other; and so long
4 as Russia drew that distinction it must apply to and must absolutely decide all the contentions between the two countries as far as the waters of the Behring's Sea are concerned. To discuss this point further would, in the opinion of the President, contribute nothing of value to the general contention.

In the opinion of the President Lord Salisbury is wholly and strangely in error in making the following statement: "Nor do they [the advisers of the President] rely

as a justification for the seizure of British ships in the open sea upon the contention that the interests of the seal fisheries give to the United States Government any right for that purpose which, according to international law, it would not otherwise possess." The Government of the United States has steadily held just the reverse of the position Lord Salisbury has imputed to it. It holds that the ownership of the islands upon which the seals breed, that the habit of the seals in regularly resorting thither and rearing their young thereon, that their going out from the islands in search of food and regularly returning thereto, and all the facts and incidents of their relation to the islands, give to the United States a property interest therein; that this property interest was claimed and exercised by Russia during the whole period of its sovereignty over the land and waters of Alaska; that England recognized this property interest so far as recognition is implied by abstaining from all interference with it during the whole period of Russia's ownership of Alaska, and during the first nineteen years of the sovereignty of the United States.

It is yet to be determined whether the lawless intrusion of Canadian vessels in 1886 and subsequent years has changed the law and equity of the case theretofore prevailing.

I have, &c.

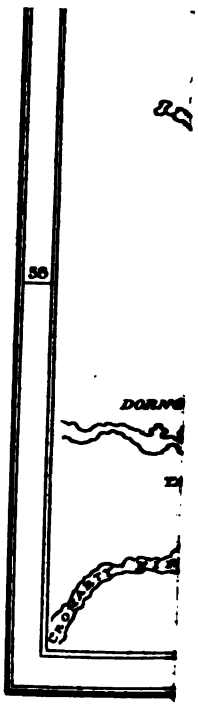
(Signed) J. G. BLAINE.

[Inclosure 2 in No. 1.]

Sketch of North-Eastern Section of Scotland.

[Inclosure 3 in No. 1.]

Original Six Questions suggested by Mr. Blaine in his Note of December 17, 1890.	*Questions as altered and now proposed by Mr. Blaine.*
1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?	1. The same.
2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?	2. The same.
3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights (if any) in the Behring's Sea were given or conceded to Great Britain by the said Treaty?	3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights (if any) in the Behring's Sea were *held and exclusively exercised by Russia after said Treaty*?
4. Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?	4. The same.
5. What are now the rights of the United States as to the fur-seal fisheries in the waters of the Behring's Sea outside of the ordinary territorial limits, whether such rights grow out of the cession by Russia of any special rights or jurisdiction held by her in such fisheries or in the waters of Behring's Sea, or out of the ownership of the breeding islands and the habits of the seals in resorting thither and rearing their young thereon and going out from the islands for food, or out of any other fact or incident connected with the relation of those seal fisheries to the territorial possessions of the United States?	5. *Has the United States any right, and, if so, what right, of protection or property in the fur-seals frequenting the islands of the United States in Behring's Sea when such seals are found outside the ordinary 3-mile limit?*



Extra

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An Act to amend the

Acts; and for other p

6. If the determination of the foregoing questions shall leave the subject in such a position that the concurrence of Great Britain is necessary in prescribing Regulations for the killing of the fur-seal in any part of the waters of Behring's Sea, then it shall be further determined: (1) How far, if at all, outside the ordinary territorial limits, it is necessary that the United States should exercise an exclusive jurisdiction in order to protect the seal for the time living upon the islands of the United States and feeding therefrom? (2) Whether a closed season (during which the killing of seals in the waters of Behring's Sea outside the ordinary territorial limits shall be prohibited) is necessary to save the seal-fishing industry, so valuable and important to mankind, from deterioration or destruction? And, if so, (3) What months or parts of months should be included in such season, and over what waters it should extend?

6. The same.
(For Additional Article as to damages, see Mr. Blaine's note.)

No. 2.

Mr. C. Hawkins to the Marquis of Salisbury.—(Received May 1.)

THE GLEN, AVENUE ROAD, *Anerley, April 29, 1891.*

MY LORD: In consequence of the negotiations being carried on between the United States Government and our own to bring about a satisfactory settlement of the Behring's Sea Seal Fishery question, I beg to offer you the following facts, trusting they may be useful to you as emanating from one with a practical knowledge extending over a period of eighteen years.

I also inclose herewith a cutting from the "Daily Chronicle" of the above date, which induces me to take this liberty, supposing the statement therein detailed to be correct.

Since about the year 1885 we have received in this country large numbers of seal-skins known in the trade as north-west coast skins, the same having been taken in the open sea, and, from appearances that are unmistakable to the initiated, are exclusively the skins of female seals pregnant; these are all shot, and I have been informed that for every skin recovered five or six are lost through sinking when struck by the shot; this wholesale slaughter of the females will, in a short time, bring about the extermination of the seal in that district if not arrested.

We, on the other hand, during my experience, have had annually large numbers of seal-skins from Alaska, and also from the Copper Island, which are killed by being clubbed on land, and are selected with judgment, being the skins of young male seals; the older fighting and breeding males are spared.

6 I feel sure that this which I have written would be corroborated by the principals of the following firms, if applied to, or any others, with sufficient intelligence, who have to deal with the skins in the salted state: Messrs. C. M. Lampson and Co., Queen Street, City; Messrs. C. W. Martin and Sons, 4, Lambeth Hill, City; Mr. G. Rice, Great Prescott Street, Whitechapel.

I beg, &c.

(Signed) C. HAWKINS.

[Inclosure in No. 2.]

Extract from the "Daily Chronicle" of April 29, 1891.

THE BEHRING'S SEA FISHERIES.

[From our Correspondent.]

NEW YORK, *Tuesday.*

Now that the "Sayward" case is postponed till October, much interest attaches to the question as to the steps that will be taken with regard to the coming sealing season. The "Herald" says that from present indications, the sealing industry will be free to all. In the summer the revenue steamers will proceed to the Behring's Sea, but with private orders to molest no vessel sealing beyond 3 miles from the shore. Mr. Blaine and Sir Julian Pauncefote have for a week past been in negotiation in respect of a *modus vivendi* for the season, but they have not yet arrived at any conclusion. Professor Elliott, the Government expert, wishes for a suspension of marine sealing for one or two years, as suggested by Lord Salisbury, but the Treasury has not given its assent to this proposal.

The Treasury officials state that the Government lost 385,000 dollars in the revenue from the islands last year, by reducing the catch from 100,000 to 60,000 seals by way of precaution. There was, in addition, a loss of 375,000 dollars through the timidity of the Treasury Agent at the islands in stopping the killing of seals when only 21,000 skins had been taken. The lessees of the islands had expected to recoup themselves this year for last year's losses, and they are alarmed at the prospect of suspension this year. According to the present outlook, the total catch for the year will be little short of 300,000 seals.

The "Boston Herald" says that the Honourable S. B. Elkins, who was Mr. Blaine's Manager in the Convention of 1888, and the nominator of President Harrison, has, through his influence, stopped the Behring's Sea negotiations, which were about to terminate successfully. Mr. Elkins is largely interested in the Sealing Company, and when he heard that Great Britain had verbally promised to join the United States to put a stop to the killing of seals for one year, he proceeded to Washington and induced Mr. Blaine to postpone the Agreement to the autumn, so that his Company could secure the 60,000 seals allowed by the Contract. Sir Julian Pauncefote has discovered the underhand move, and, while addressing a remonstrance to Mr. Blaine, he has also hastened to put a proposal to him in writing, so that it cannot be ignored.

No. 3.

Colonial Office to Foreign Office.—(Received May 27.)

DOWNING STREET, *May 27, 1891.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 22nd instant,* forwarding copy of a despatch from Her Majesty's Minister at Washington inclosing copy of a letter addressed by Professor Elliot to the United States Secretary to the Treasury, on the condition of seal life on the Pribyloff Islands during the summer of 1890.

I am to observe, in reply, that this letter of Mr. Elliot's bears out in a remarkable manner the contention of the Dominion Government that the principal danger to the seal species arises not from pelagic sealing, which would appear to be comparatively harmless, but from ill-regulated killing on land.

7 In these circumstances, it is for consideration whether Her Majesty's Government should not insist that the question of the future regulation of sealing on land, as well as at sea should be submitted to the proposed Arbitration Tribunal.

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* "United States No. 2 (1891)," Appendix, p. 52.

In any case, Lord Knutsford is of opinion that an exhaustive joint inquiry should be made into the whole question, the results of which should be laid before the Arbitrators to enable them to arrive at a sound decision.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 4.

Colonial Office to Foreign Office.—(Received May 29.)

DOWNING STREET, *May 29, 1891.*

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, paraphrase of a telegram from the Governor-General of Canada, stating that the Canadian Government acquiesce in the proposed *modus vivendi* in Behring's Sea subject to certain conditions.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure in No. 4.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

OTTAWA, *May 27, 1891.*

With reference to my telegram of the 18th May, I forward the Minute of the Privy Council:

With reference to your telegrams of the 17th and 23rd instant, the Government of the Dominion accede to the proposition of Her Majesty's Government, provided that compensation be given to the sealers who may be prevented from prosecuting their avocation, and that the authorities of the United States accept at once the terms suggested by her Majesty's Government, and concurred in by the Dominion Government in August last, as an essential part of the same Agreement.

As, however, the Canadian Government does not possess the means of giving the proposed warning, and as the time for doing so appears inadequate, the Dominion Ministers cannot undertake to be answerable in the event of such warning proving ineffective.

There would be ample time to give due notice to all concerned if an alternative suggestion to the proposals referred to were made for a close season next year.

No. 5.

The Marquis of Salisbury to Sir R. Morier.

[Telegraphic.]

FOREIGN OFFICE, *June 2, 1891.*

Ask the Russian Government whether they would be disposed to join in an Agreement which has been proposed by the United States Government and accepted by her Majesty's Government for a suspension until May 1892 of seal hunting in the islands and waters of Behring's Sea.

It is believed that an engagement will be entered into by both Powers to do their best to prevent their respective subjects and citizens from taking part in seal hunting, with the exception of a catch of 7,500 seals destined for the support of the Aleuts in the service of the North American Commercial Company. The Agreement cannot, of course, be signed unless Russia is prepared to adhere to it.

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8 No. 6.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 2, 1891.*

I have to instruct you to make the following proposals to the United States Government with regard to a *modus vivendi* in Behring's Sea:

1. The two Governments to prohibit, up to May 1892, the killing of seals in Behring's Sea or any of the islands thereof, and to insure, to the best of their ability, that this prohibition shall not be infringed by their subjects, or by vessels flying their respective flags.

2. During the time named the United States shall have the right to kill 7,500 seals.

3. An exequator will be granted by the United States Government to any Consul who may at any time be appointed by Her Majesty's Government to the islands in Behring's Sea.

4. The above Convention shall not come into operation unless the assent of Russia is given to it.

No. 7.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 2.)

[Telegraphic.]

WASHINGTON, *June 2, 1891.*

I have received your telegram of to-day. I will lose no time in acting on your Lordship's instructions. With reference to clause 1, I beg to observe that the prohibition extends to the whole of Behring's Sea, and I apprehend objection on the ground that the United States Government is not empowered by Act of Congress to prohibit sealing beyond that part of it which, they contend, is, by virtue of their Treaty with Russia, "within the dominion of the United States."

No. 8.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 2, 1891.*

With reference to your despatch of the 15th April last, I have to request you to inform the Government of the United States that Her Majesty's Government are prepared to assent to the first five points

which Mr. Blaine proposes should be submitted to arbitration in his note of the 14th April.

Her Majesty's Government are unable to assent to the sixth point.

They propose as an alternative the appointment of a Commission consisting of four experts, of which two should be nominated by Great Britain, and two by the United States, and of a Chairman nominated by the Arbiters.

This Commission to examine and report on the following question:

What international arrangements, if any, between Great Britain, the United States, and Russia, or any other Power, are necessary for the purpose of preserving the fur-seal race in Behring's Sea from extermination?

With regard to the question of compensation, Her Majesty's Government propose the following Article:

"If it shall be shown to the Arbitrators that seal-hunters, subjects of either Power, have been damnified in the pursuit of that industry by the action of the other Power, it shall be competent for the Arbitrators to award such compensation to the said subjects as in their judgment shall seem equitable."

No. 9.

The Marquis of Salisbury to M. de Staal.

FOREIGN OFFICE, *June 2, 1891.*

M. L'AMBASSADEUR: I have the honour to inform your Excellency that Her Majesty's Government have agreed to a proposal made
9 to them by the Government of the United States that seal hunting should be suspended in the islands and waters of Behring's Sea until May 1892. We believe that an engagement will be entered into by both Powers to do their best to prevent their subjects and citizens from taking part in the seal hunting, exception only being made for a catch of 7,500 destined for the subsistence of the natives in the service of the Alaska Company. A proposal has been made to the United States Government to that effect.

This Arrangement cannot be put in force without the adherence of the Russian Government, and the Agreement will not be signed until this has been obtained. Her Majesty's Ambassador at St. Petersburgh has been instructed by telegraph to make a communication in the above sense to M. de Giers, and to express our earnest hope that the Russian Government will consent to a measure which appears to be necessary in order to prevent the early extermination of the fur-seal.

I have, &c.

(Signed) SALISBURY.

No. 10.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 3.)

[Telegraphic.]

WASHINGTON, *June 3, 1891.*

I have to-day communicated to the Acting Secretary of State, in the form of Memoranda, the substance of your Lordship's telegrams of yesterday's date, relative to Behring's Sea, which I received last night.

No. 11.

The Marquis of Salisbury to Sir E. Malet.

FOREIGN OFFICE, *June 3, 1891.*

SIR: Her Majesty's Government have agreed to a proposal made by the United States Government for the suspension for one year of seal hunting in the islands and waters of Behring's Sea; and have expressed their readiness to enter into an Agreement whereby the two Governments shall prohibit the killing of seals up to May 1892, and shall undertake to use their best endeavours to prevent the infringement of the prohibition by their respective subjects and citizens or by vessels flying their respective flags, with the exception of a catch of 7,500 seals destined for the support of the Aleutian islanders in the service of the North American Commercial Company.

The Russian Government have been invited to join in the Arrangement.

It has been suggested that it would be desirable to obtain the concurrence of the German Government in the suspension of seal-taking on the ground that the German flag has appeared on fishing-vessels in the Behring's Sea. According to the Report of the Canadian Minister of Marine for 1889, it appears that one such vessel was engaged in fishing during that year.

I should wish you to ascertain whether the interest taken by the German Government in the seal fishery is such as to make it advisable to invite their concurrence in the suspension.

I am, &c.

(Signed) SALISBURY.

No. 12.

Sir R. Morier to the Marquis of Salisbury.—(Received June 4.)

[Telegraphic.]

ST. PETERSBURGH, *June 4, 1891.*

I have this day communicated to M. de Giers a note in the sense of your Lordship's telegram of the 2nd instant. I am informed that his Excellency has not yet heard from the United States Government on the subject.

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No. 13.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 4.)

[Telegraphic.]

WASHINGTON, *June 4, 1891.*

With reference to your Lordship's telegram of the 2nd instant, containing the draft of a *modus vivendi* in Behring's Sea, I have the honour to inform you that I have to-day received a reply to your Lordship's proposal from the Acting Secretary of State, which is to the following effect:

[See text of Mr. Wharton's note of the 4th June in Sir Julian Pauncefote's despatch of the 5th June, 1891: Inclosure in No. 40, *infra.*]

No. 14.

The Marquis of Salisbury to Sir R. Morier.

[Telegraphic.]

FOREIGN OFFICE, *June 5, 1891.*

I have received your telegram of yesterday.

We should be glad if M. de Giers would inform us of his views with regard to the proposed Agreement for the preservation of the seals in Behring's Sea without waiting to receive a communication from the Government of the United States on the subject.

No. 15.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 5, 1891.*

Her Majesty's Government have had under their consideration the counter-proposals of the President of the United States for a *modus vivendi* in Behring's Sea, as reported in your telegram of the 4th instant.

They agree to accept the proposal, that officers of either Government may seize and hand over to their national jurisdiction offending vessels under either flag.

We thus give power to cruizers belonging to the United States to supervise the conduct of Englishmen in keeping the *modus vivendi* at sea. On the other hand, we ought to receive corresponding power from the United States of supervising the proceedings of Americans on the islands resorted to by the seals. The equality of the proposed Agreement is dependent on the fidelity with which the Americans observe the condition, that not more than 7,500 seals shall be killed. In the opinion of Her Majesty's Government, it is indispensable that the right should be reserved to them of satisfying themselves that this condition is fully observed.

If the United States Government object to the appointment of a permanent British Consul on the islands, they can, under their Statute, specially authorize the presence there during the present fishing season of a British agent.

Her Majesty's Government will not insist that Russia shall be a party to the proposed *modus vivendi*. But I earnestly press upon the United States Government the extension of the prohibition to American ships over the whole of Behring's Sea; in that case, Her Majesty's Government will similarly extend the prohibition to British ships.

If it is lawful that seals may be hunted on one side of an imaginary line in the open ocean while it is unlawful on the other side, it will, in many cases, be impossible to prove the fact of unlawful sealing, or to infer from the possession of skins or tackle that it has taken place.

It is, in the opinion of Her Majesty's Government, of great importance that an Agreement should be arrived at as to the terms of the arbitration at the same time that the *modus vivendi* is arranged. We should be unable to repeat the suspension of seal-fishing operations for another year.

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No. 16.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 6.)

[Telegraphic.]

WASHINGTON, *June 6, 1891.*

This morning I delivered to the Acting Secretary of State a Memorandum communicating the contents of your Lordship's telegram of yesterday, and I have just received a reply to the following effect:

[See text of Mr. Wharton's note of the 6th June in Sir Julian Pauncefote's despatch of the 9th June, 1891: Inclosure in No. 47, *infra*.]

No. 17.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 8.)

WASHINGTON, *May 28, 1891.*

MY LORD: I have the honour to inclose copy of a note which I have received from Mr. Adee, Acting Secretary of State, expressing the earnest desire of the President for an early response to the proposal contained in Mr. Blaine's note of the 4th instant for a *modus vivendi* during the coming sealing season in Behring's Sea.

Mr. Adee, as your Lordship will perceive, informs me of the departure of the United States revenue-steamer "Rush" for the sealing islands and of the approaching sailing of the "Corwin" for the same destination.

I have also the honour to inclose copy of the reply which I have returned to Mr. Adee's communication.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 17.]

Mr. Adee to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, May 26, 1891.*

SIR: In my personal note of the 20th instant, and on several other occasions in oral communication, I have had the honour to express the desire of the President to be informed, at the earliest possible moment, of the response of Her Majesty's Government to the proposal, which formed the subject of Mr. Blaine's note to you of the 4th instant, that seal-taking on the islands and in the waters of Behring's Sea be limited, as in said note expressed, as to citizens of the United States and subjects of Great Britain, pending the arbitration of certain questions in controversy between the two Governments.

In several interviews with you since the 20th instant, the desire of the President for an early response to the note of the 4th May has been reaffirmed.

The situation evidently calls for prompt action. Each day's delay increases the existing difference in the ability of the respective Governments to make the proposed limitation of seal-taking effective. It is reported that a large fleet of Canadian sealers has been for some weeks or months on the seas. They are daily going further out of reach. The revenue-cruizers have awaited definite orders. Their presence is urgently needed in the Behring's Sea. Any further delay tends to defeat the very purpose for which the Agreement is sought. It is quite incompatible with fairness and justice to our citizens that this should be permitted to continue.

Ample opportunity has been afforded to Her Majesty's Government to bring this condition to a close by an effective Agreement; but the result is still uncertain, and to all appearances remote. The President would be glad to know that it is near at

hand and certain; but he can no longer hold back, in furtherance of a vague hope, to the detriment of the legitimate interests of the Government and citizens of the United States.

I am, therefore, directed by the President to inform you that orders have been given to the revenue-steamer "Rush" to proceed to the sealing islands.

Another revenue-steamer, the "Corwin," is at San Francisco, nearly ready to sail, and will very shortly put to sea. Should an Agreement be reached before her departure, appropriate orders may still be sent by her to the islands. I mention
12 this, in order that you may comprehend how fully this Government desires to effect an arrangement for this season, and that you may realize how each day's delay lessens the ability of Her Majesty's Government to effectively co-operate with regard to British subjects, and tends to destroy the practical utility of an Agreement to limit the seal catch.

I have, &c.

(Signed) ALVEY A. ADEE, *Acting Secretary.*

[Inclosure 2 in No. 17.]

Sir J. Pauncefote to Mr. Adee.

WASHINGTON, *May 27, 1891.*

SIR: I have the honour to acknowledge the receipt of your note of yesterday's date, and to inform you that I have communicated the substance of its contents to the Marquis of Salisbury by telegram. I feel assured that his Lordship will greatly regret any inconvenience which may be caused to your Government by the impracticability of returning an immediate reply to the proposal contained in Mr. Blaine's note to me of the 4th instant.

Lord Salisbury, as I had the honour to state to you verbally, is using the utmost expedition, but the lateness of the proposal and the conditions attached to it have given rise to grave difficulties, as to which his Lordship has necessarily been in communication with the Canadian Government. His reply, however, may now arrive at any moment.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 18.

Colonial Office to Foreign Office.—(Received June 8.)

DOWNING STREET, *June 8, 1891.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a letter from the Acting High Commissioner for Canada, forwarding copy of a telegram from the British Columbian Board of Trade, protesting against the proposed prohibition of sealing in Behring's Sea this season.

Lord Knutsford proposes, with Lord Salisbury's concurrence, to inform the Acting High Commissioner, in reply, that, as the total cessation of sealing in Behring's Sea will greatly enhance the price of the produce of the coast fishery, Her Majesty's Government do not anticipate that British sealers will suffer to any great extent by exclusion from Behring's Sea; but that they will be prepared to consider any case in which it is clearly established that loss has been suffered by a British subject through the enforcement of the prohibition.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure in No. 18.]

Mr. Colmer to Colonial Office.

VICTORIA CHAMBERS, 17, VICTORIA STREET,
London, June 3, 1891.

SIR: I am directed by the High Commissioner to quote, for the information of Her Majesty's Government, the following telegram which has been received from Mr. Robert Ward, the President of the British Columbia Board of Trade:

"British Columbia Board of Trade respectfully asks you protest strongest possible manner against proposed legislation prohibiting British sealers Behring's Sea this season. Sealing fleet equipped and cleared months since at heavy outlay. Result peremptory prohibition serious injustice and ruin to many engaged in industry here."

I am, &c.

(Signed) J. G. COLMER.

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13 No. 19.

Sir R. Morier to the Marquis of Salisbury.—(Received June 8.)

[Telegraphic.]

ST. PETERSBURGH, *June 8, 1891.*

I had a long conversation yesterday with M. de Giers at his country place in Finland, relative to the proposed Agreement between the Governments of Great Britain and the United States for the protection of seal-hunting in the islands and waters of the Behring's Sea. His Excellency's views with regard to the proposal are entirely in accord with those of Her Majesty's Government, but it appears that the question is not treated of by him, but by the Minister of Domains, who has just terminated negotiations for a contract with an influential Russo-American Seal Company.

His Excellency informed me that he would do his utmost to pursuade his colleague to agree to the proposal, and he expressed the hope that he would be able to give me a final answer during the coming week.

No. 20.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 8, 1891*

Her Majesty's Government have had under consideration the count proposals of the President of the United States for a *modus vive* during the present seal-fishing season in Behring's Sea, as reported your telegram of the 6th instant.

I have to inform you that they are prepared to assent to a dr Agreement drawn up in the terms which you will receive in my furth telegram of to-day.

No. 21.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 8, 1891.*

The following Articles of Agreement contain the terms to which Her Majesty's Government are prepared to assent for the establishment of a *modus vivendi* in Behring's Sea.

You are authorized to submit them for the consideration of the Government of the United States:

For the purpose of avoiding irritating differences, and with a view to promote friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for preservation of seal species, the following Agreement is made without prejudice to the rights or claims of either party:

1. Her Majesty's Government will prohibit until May next seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use best efforts to insure observance of prohibition by British subjects and vessels.

2. If the United States Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands as food skins, and not for tax and shipment), and will promptly use best efforts to insure observance of prohibition by United States citizens and vessels.

3. Every offending vessel or person may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and the proofs necessary to establish the offence shall also be sent with them.

4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with the view to the presentation of the Case of that Government before Arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons, designated by Great Britain, will be permitted at any time, upon application, to visit, or to remain upon, the seal islands during the present sealing season for that purpose.

14 5. A Commission of four experts, two nominated by each Government, and a Chairman nominated by the Arbitrators if appointed, and if not by the aforesaid Commissioners, shall examine and report on the following question:

What international arrangements, if any, between Great Britain, United States, and Russia, or any other Power, are necessary for the purpose of preserving the fur-seal race in the Northern Pacific from extermination?

6. The Government of the United States will join with that of Her Majesty in requesting Russia to forbid her subjects from sealing to the east of the line indicated in Article 1 of the present Agreement until the 1st May, 1892.

No. 22.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 8.)

[Telegraphic.]

WASHINGTON, *June 8, 1891.*

I have to-day delivered a note to the Acting Secretary of State communicating to him, with the request that he will submit it to his Government for their consideration, the draft Agreement for a *modus vivendi* contained in your Lordship's telegram of to-day.

No. 23.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 9.)

[Telegraphic.]

WASHINGTON, *June 9, 1891.*

The draft of a note in answer to the proposals for a *modus vivendi* contained in your Lordship's telegram of yesterday, which will be addressed to me to-morrow, has just been shown to me.

The words in Article 2 "as food skins, and not for tax and shipment," are objected to by the President on the grounds that such a provision would preclude the export and sale of the skins for the purpose described in Mr. Blaine's note of the 4th May, *i. e.*, to cover the cost of clothing, food, and fuel for the native inhabitants of the island.

The President insists on the limitation of the power of seizure provided for in Article 3 to the waters "outside the ordinary territorial limits." On this point I beg to refer your Lordship to my telegram of the 6th instant.

He objects to the provision in Article 5 for the appointment of a Joint Commission as having no proper place in the *modus vivendi*, but he will give the suggestion "a full consideration in connection with the negotiation for arbitration."

Article 6, as to a joint note to Russia, is objected to on the ground that, westward of the line of demarcation, the United States Government has no power to agree to reciprocal action if Russia should make it a condition of adhesion.

The note concludes by stating that the President is prepared to sign at once the first four Articles proposed by your Lordship, with the omission in Article 2 and the additional clause in Article 3 specified above, if the Agreement can be immediately put into force.

I fear that lack of time will prevent us carrying the negotiation further, but I will use my best efforts to induce the United States Government to agree positively, as one of the terms of arbitration, to a provision for a Joint Commission.

No. 24.

The Marquis of Salisbury to Sir R. Morier.

[Telegraphic.]

FOREIGN OFFICE, *June 9, 1891.*

In consequence of the existing statutory limitations to the powers of the United States Executive, Her Majesty's Government propose that there shall be a close time in Behring's Sea for this season on land and sea only, to the east of the line of 1867.

They are only asking, therefore, that Russian subjects shall be forbidden during this year from sealing to the east of that line by sea, as Russia has no land to the east of it; and that we shall be allowed to stop vessels sailing under the Russian flag which are so employed.

But as the United States Government maintain that they have a right to exclude all ships of whatever nation from that part of Behring's Sea, they can hardly join in this request without *stultifying* themselves.

A close time to the east of the line in the result will also recruit the seal fishery to the west of it, and Russia, therefore, will find her interest in acceding to our request.

No. 25.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 10, 1891.*

Behring's Sea *modus vivendi.* I have received your telegram of yesterday.

We assent to the insertion in Article 3 of the words, "outside ordinary territorial limits," and also, though reluctantly, to the omission from Article 2 of the words, "as food skins, and not for tax and shipment."

We cannot, however, consent to leave the Joint Commission in doubt. It may be recorded in the form of a separate note; but if the United States will not agree in principle that inquiry shall be made by a Joint Commission as to what permanent measures, if any, are necessary for the preservation of the seal species, it is useless for us to involve our people in the inconvenience and cost which a close time for this year would entail.

The *modus vivendi* is rendered much less valuable by the reply of the President with regard to Russia.

No. 26.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 10.)

[Telegraphic.]

WASHINGTON, *June 10, 1891.*

With reference to my telegram of last night, relative to Behring's Sea, I have the honour to inform your Lordship that I called this morning on Mr. Wharton, the Acting Secretary of State. I explained that the words, "food skins, and not for tax and shipment," had been inserted in Article 2 for the purpose, not of preventing the sale of the 7,500 seal-skins, but of prohibiting the process which has been described by the United States agents as the chief cause of the depletion of male seal life, namely, the driving and re-driving for selection. I was informed that the President still objects to the words, but that he would probably agree to the substitution of the phrase, "to cover the cost of food, fuel, clothing, and other necessaries for the natives," which I suggested in order that the humanitarian object of the reservation might appear on the face of the document.

I presume that your Lordship will not object to the substitution of this phrase, or to the insertion in Article 3 of the words, "outside the ordinary territorial limits." Should your Lordship have no objection to these alterations, I venture to urge strongly that I may be at once authorized to sign the Agreement for a *modus vivendi*, to consist of the preamble and the first four Articles, as contained in your Lordship's telegram of the 8th instant, with the alterations given above, and the

omission, which is agreed to by the State Department, of the last portion of Article 3, relating to the application of fines imposed by the Courts, this not being provided for in the Behring's Sea Act just passed.

Mr. Wharton assures me that the settlement of the terms of arbitration will be greatly expedited by the immediate signature of the Agreement, and he expresses the opinion that a Joint Commission may be rendered practicable this year by our signing at once.

No. 27.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 10.)

[Telegraphic.]

WASHINGTON, *June 10, 1891.*

With reference to my telegrams of yesterday and to-day respectively, I have the honour to inform your Lordship that I received the official note to-day the draft of which was shown me last night. It is
16 identical with the draft, except that in Article 2 the words, "for the subsistence and care of the natives," have been inserted after "in excess of 7,500 seals to be taken on the islands."

No. 28.

Sir R. Morier to the Marquis of Salisbury.—(Received June 10.)

[Telegraphic.]

ST. PETERSBURGH, *June 10, 1891.*

With reference to your Lordship's telegram of yesterday, I presume that, if we claim right to stop ships under Russian flag catching seals to the east of the 1867 line, we are prepared to allow Russia, under similar circumstances, to stop our own ships.

No. 29.

The Marquis of Salisbury to Sir R. Morier.

[Telegraphic.]

FOREIGN OFFICE, *June 10, 1891.*

The answer is "Yes" to the question asked in your telegram of to-day.

No. 30.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *June 10, 1891.*

SIR: I have laid before the Marquis of Salisbury your letter of the 8th instant, inclosing a protest from the Board of Trade of British Columbia against the proposed prohibition of sealing in Behring's Sea during the present season.

I am to state, in reply, that Lord Salisbury concurs in the answer which Lord Knutsford proposes to return to this communication.

I am, &c.

(Signed) P. CURRIE.

No. 31.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 11, 1891.*

Behring's Sea *modus vivendi.*

Before you can be authorized to sign the Agreement, as suggested in your telegram of yesterday, you must obtain a written assurance in some form from the United States Government that they will agree to the proposed reference to a Joint Commission of Experts.

No. 32.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 11.)

[Telegraphic.]

WASHINGTON, *June 11, 1891.*

I lost no time in addressing a note to the Acting Secretary of State in the sense your Lordship's telegram of to-day relative to Behring's Sea.

This afternoon I received a reply in the following terms:

The United States Government, recognizing the fact that full and adequate measures for the protection of seal life should embrace the whole Behring's Sea and portions of the North Pacific Ocean, will have no hesitancy in agreeing, in connection with Her Majesty's Government, to the appointment of a Joint Commission to ascertain what permanent measures are necessary for the preservation of the seal species in the waters referred to; such an Agreement to be signed simultaneously with the Convention for Arbitration, and to be without prejudice to the questions to be submitted to the Arbitrators.

17 A full reply to your note of the 3rd June relating to the terms of arbitration will not be long delayed.

(The note of the 3rd June quoted above conveyed the sense of your Lordship's telegram of the 2nd June.)

On receipt of this reply, which was handed to me by Mr. Wharton, I expressed my regret and disappointment at the stipulation contained in it that the Agreement for a Joint Commission should be signed simultaneously with the Convention for Arbitration, as the Commission's appointment might be thereby indefinitely delayed, with the result that we should lose this year's season. He replied that the object of the stipulation was to make it clear to the public that the Joint Commission had not been accepted by the United States Government until it had been definitely agreed that the settlement of the legal rights in dispute between the two nations should be referred to arbitration. He assured me that the President was most anxious that the appointment of the Commission should be early enough to permit it to commence its work during the season. In order to secure this result

he would do everything in his power to expedite the signature of the Convention for Arbitration.

I await your Lordship's further instructions as to the steps I should now take.

No. 33.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *June 12, 1891.*

SIR: I have received your despatch of the 28th ultimo, inclosing copies of correspondence with the Acting Secretary of State respecting the proposed *modus vivendi* in Behring's Sea.

Your note to Mr. Adee of the 27th May is approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 34.

Colonial Office to Foreign Office.—(Received June 13.)

DOWNING STREET, *June 13, 1891.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a telegram which has been sent to the Governor-General of Canada, respecting the selection of two British experts on the Joint Commission of inquiry into the seal fishery in Behring's Sea.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 34.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *June 12, 1891.*

Shall be glad to know views of your Ministers as to selection of two British experts Behring's Sea Arbitration.

We think Baden-Powell, Member of Parliament, who has studied the question, would be valuable, and conclude he would be acceptable to Canada. The other should have special scientific or practical knowledge of seals and their habits. Can your Ministers propose well-qualified person?

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18 No. 35.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 13, 1891.*

Modus vivendi in Behring's Sea.

You are authorized to sign the Agreement, recording that you do so on the clear understanding that there will be no delay in the appointment of the Commission of Experts.

We will send instructions to our cruizers as soon as we hear that you have signed.

No. 36.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 13.)

[Telegraphic.]

WASHINGTON, *June 13, 1891.*

Immediately on the receipt of your Lordship's telegram of the 13th instant on the subject of the *modus vivendi* in Behring's Sea, I addressed a note to the Acting Secretary of State, informing him that I had received your Lordship's authorization to sign the *modus vivendi*, on the clear understanding that there would be no delay in appointing the Joint Commission.

The following are the terms of the note which I have received, in reply, from Mr. Wharton:

The President directs me to say, in response to your note of this date, that his assent to the proposition for a Joint Commission, as expressed in my note of the 9th June, was given in the expectation that both Governments would use every proper effort to adjust the remaining points of difference in the general correspondence relating to arbitration, and to agree upon the definite terms of a submission, and of the appointment of a Joint Commission without unnecessary delay.

He is glad that an agreement has finally been reached for the pending season.

The note proceeds with an invitation to call on Monday next, at 10 o'clock, at the State Department, in order to sign the Agreement. I have received a positive assurance at the State Department that the President will be prepared to proceed to discuss the terms of arbitration immediately after the signature of the Agreement.

As this reply appears to me to be satisfactory, I propose to sign on Monday; but before doing so, I should be glad if your Lordship would send me your final authority by telegraph.

No. 37.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 14, 1891.*

Behring's Sea *modus vivendi.*

In reply to your telegram of to-day, I have to inform you that you are authorized to sign the Agreement.

No. 38.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 14.)

[Telegraphic.]

WASHINGTON, *June 14, 1891.*

The Acting Secretary of State and I have just signed the Agreement for a *modus vivendi* in Behring's Sea.

I am now awaiting an appointment to continue the discussion of the terms of arbitration.

The above has been repeated to Lord Stanley.

19 No. 39.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 15.)

WASHINGTON, *June 5, 1891.*

MY LORD: With reference to my telegram of the 3rd instant, I have the honour to inclose copies of the Momoranda based on your Lordship's telegrams of the 2nd instant, on the subject of the *modus vivendi* in Behring's Sea, and of the terms of arbitration respectively, which I left yesterday morning with the Under-Secretary of State.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 39.]

MEMORANDUM.

Proposal of Her Majesty's Government for a modus vivendi in the Behring's Sea during the present Fishery Season.

The Governments of Great Britain and of the United States shall prohibit, until May 1892, the killing of seals in Behring's Sea or any islands thereof, and will, to the best of their power and ability, insure that the subjects and citizens of the two nations respectively, and the vessels flying their respective flags, shall observe that prohibition.

2. During the period above specified the United States Government shall have the right to kill 7,500 seals.

3. Consuls may, at any time, be appointed to the islands in the Behring's Sea, and the United States Government will grant an exequatur to any such Consul.

4. Unless the assent of Russia be obtained to this Convention it shall not come into operation.

(Signed) JULIAN PAUNCEFOTE.

WASHINGTON, *June 3, 1891.*

[Inclosure 2 in No. 39.]

MEMORANDUM.

The Undersigned has been instructed by the Marquis of Salisbury to inform the United States Government that Her Majesty's Government are prepared to assent to the first five questions proposed to be submitted to arbitration in the note of the Honourable James G. Blaine to the Undersigned, dated the 14th April last.

Her Majesty's Government cannot give their assent to the sixth question formulated in that note. In lieu thereof they propose the appointment of a Commission to consist of four experts, of whom two shall be nominated by each Government, and a Chairman, who shall be nominated by the Arbitrators. The Commission shall examine and report on the question which follows:

"For the purpose of preserving the fur-seal race in Behring's Sea from extermination, what international arrangements, if any, are necessary between Great Britain and the United States and Russia or any other Power?"

As regards the question of compensation Her Majesty's Government propose the following Article:

"It shall be competent to the Arbitrators to award such compensation as in their judgment shall be equitable to the subjects and citizens of either Power who shall be shown to have been damnified in the pursuit of the industry of sealing by the action of the other Power."

(Signed) JULIAN PAUNCEFOTE.

WASHINGTON, *June 3, 1891.*

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No. 40.

*Sir J. Pauncefote to the Marquis of Salisbury.**—(*Received June 15.*)

WASHINGTON, *June 5, 1891.*

MY LORD: With reference to my telegram of the 4th instant, I have the honour to inclose a copy of a note which I received yesterday from the Honourable William Wharton, the Acting Secretary of State, in reply to the counter-proposals of Her Majesty's Government for a *modus vivendi* in Behring's Sea, communicated by me to the United States Government in accordance with the instructions contained in your Lordship's telegram of the 2nd instant.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 40.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 4, 1891.*

SIR: I am directed by the President to say, in reply to your note of the 3rd instant, conveying to the Government of the United States the response of Her Majesty's Government to the proposal of Mr. Blaine for a *modus vivendi*, relating to the seal fisheries in Behring's Sea during the present season:

First. In place of the first and second sub-divisions of the Agreement as submitted by you, the President suggests the following:

1. The Government of Great Britain shall prohibit until May 1892 the killing of seals in all that part of Behring's Sea lying east, eastwardly or south-eastwardly of the line described in Article I of the Convention between the United States and Russia of date the 30th March, 1867, and will promptly take such steps as are best calculated effectively to insure the observance of this prohibition by the subjects and citizens of Great Britain and all vessels flying its flag.

2. The Government of the United States shall prohibit, until May 1892, the killing of seals in that part of Behring's Sea above described, and on the shores and islands thereof, the property of the United States (in excess of 7,500 to be taken on the islands); and the Government of the United States will promptly take such steps as are best calculated effectually to insure the observance of this prohibition by the citizens of the United States and the vessels flying its flag.

These changes are suggested in order that the *modus vivendi* may clearly have the same territorial extent with the pending proposals for arbitration; that the stipulation for a prohibition of seal-killing upon the islands of the United States may rest upon its own order, and that the obligation of the respective Governments to give prompt and vigorous effect to the Agreement may be more clearly apparent.

Secondly. The pertinency of the suggestion contained in the third sub-division of Lord Salisbury's proposal is not apparent to the President. The Statutes of the United States explicitly prohibit the landing of any vessels at the seal islands, and the residence thereon of any person, unless specifically authorized by the Secretary of the Treasury. It is, therefore, obvious that no Consular functions could be discharged upon the islands by any Representative of Her Majesty's Government. The President regards this Law, as declaring an exception as to the residence of Consuls, within the meaning of Article IV of the Convention of Commerce and Navigation of the 22nd December, 1815, between Her Majesty's Government and the United States. If the proposal is intended to relate to the Islands of St. Paul and St. George, and has for its object access for such Agents of the Government of Her Majesty as may be appointed to investigate facts that may be involved in the pending proposals for arbitration, or in the hearing before the Arbitrators, I am directed by the President to say that, in the event of an agreement for arbitration of the questions in dispute between Great Britain and the United States, he would be willing to extend reasonable facilities to Great Britain for the investigation at the islands of any facts involved in the controversy.

Thirdly. The fourth clause of the proposal of Her Majesty's Government, limiting the taking effect of the *modus vivendi* upon the assent of Russia, presents what

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* Substance telegraphed and received June 4.

21 seems to the President an insuperable difficulty, as an adherence to that suggestion by Her Majesty's Government will, in his opinion, prevent the conclusion of any Agreement, and will inevitably cause such a delay as to thwart the purposes which he must suppose both Governments have had in view. He is surprised that this result did not suggest itself to Lord Salisbury, and does not doubt that it will be apparent to him on a re-examination. I am also directed to remind you that the contention between the United States and Great Britain has been limited to that part of Behring's Sea eastward of the line of demarkation described in our Convention with Russia, to which reference has already been made, and that Russia has never asserted any rights in these waters affecting the subject-matter of this contention, and cannot, therefore, be a necessary party to these negotiations, if they are not now improperly expanded. Under the Statutes of the United States, the President is authorized to prohibit sealing in the Behring's Sea within the limits described in our Convention with Russia, and to restrict the killing of seals on the islands of the United States; but no authority is conferred upon him to prohibit or make penal the taking of seals in the waters of Behring's Sea westward of the line referred to or upon any of the shores or islands thereof. It was never supposed by any one representing the Government of the United States in this correspondence or by the President, that an agreement for a *modus vivendi* could be broader than the subject of contention stated in the correspondence of the respective Governments.

Negotiations for an arbitration have been proceeding between the United States and Great Britain, and if these Powers are competent to settle by this friendly method their respective rights and relations in the disputed waters upon a permanent basis, it would seem to follow that no question could arise as to their competency to deal directly with the subject for a single season. If Great Britain now insists upon impossible conditions, viz., that the conclusion of the *modus vivendi* is to be delayed until, and made contingent upon the assent of Russia to stop the killing of seals on its own islands and in its own waters, and upon the exercise by the President of powers not conferred by law, this would be, in his opinion, a practical withdrawal by Great Britain from the negotiations for a *modus vivendi*. This he would very much regret, and he confidently hopes that a reconsideration will enable Lord Salisbury to waive the suggestion of Russia's participation in the Agreement, and the inclusion of other waters than those to which the contention between the United States and Great Britain relates.

In case the terms of the *modus vivendi* are agreed upon, the President suggests that a provision heretofore considered in another connection in the general correspondence, by which the naval or other duly commissioned officers of either party may arrest any offending vessel and turn it over at the nearest port of the nation whose flag it carries, for such judicial proceedings as the law provides, should be incorporated here, the more effectually to carry out the stipulations of the respective Governments to prohibit their citizens and vessels from taking seals in the specified waters of Behring's Sea.

Having, with a view to an exigency which he has several times caused to be explained to you, promptly responded to the suggestions of your note of yesterday, the President directs me to say that he will be pleased to have from Lord Salisbury a prompt response to these suggestions.

I am further directed by the President to say that your note of the same date referring to the conditions of the proposed arbitration, and stating the objection of Lord Salisbury to some points in the proposal of Mr. Blaine, will have the early attention of the President.

I have, &c.

(Signed) WILLIAM F. WHARTON,
Acting Secretary.

No. 41.

Sir R. Morier to the Marquis of Salisbury.—(Received June 15.)

ST. PETERSBURGH, *June 10, 1891*

MY LORD: When your Lordship's telegram of the 2nd instant, respecting the seal question in the Behring's Sea, reached St. Petersburgh on Wednesday morning, I chanced to be in Finland, whither I had gone for an indispensable change of air. M. de Giers also intended to proceed thither at the end of the week. The places where we were respectively staying were a considerable distance apart, and as I was

not sure which day M. de Giers was leaving St. Petersburgh, I did
22 not know whether to go to the capital or to his country house.

I accordingly telegraphed to Mr. Howard to at once address a note to the Foreign Office in the sense of your Lordship's telegram, and arranged to meet M. de Giers at his country house on Sunday. By this means no time was lost, for as early as Thursday night M. Shishkine, the Under-Secretary for Foreign Affairs, had telegraphed the contents of Mr. Howard's note to M. de Giers, who, when I reached him on Sunday, had had the papers connected with the subject sent up to him, and was in a position to give a provisional reply.

His Excellency's statement was to the following effect.

The question of seal-hunting in the Behring's Sea had formed the subject of continuous negotiation between the United States Government and his own for a very considerable time, and many proposals had been submitted to him by the United States Department, to none of which, however, had he been able to give his assent. So far as he could see, your Lordship's proposal was very reasonable, and its principle—namely, to give the seal fisheries a year's rest, in order to come to a definite arrangement as to the best means for preventing the destruction of these valuable animals—was one with which he had the fullest sympathy. It was impossible, however, to give me an answer off-hand, because the matter lay not with the Minister for Foreign Affairs, but with that of the Domains. Now it so happened that quite lately the former Contract of the Government with the Alaska Company had terminated, and a new Contract with a Russian Company had been substituted for it. Whether M. Ostrowski, the Minister of the Domains, would be in a position to put this Contract in abeyance for the next twelve months, and whether, if he could, he would be able to do so without bringing the matter again before the Committee of Ministers, which would require some time, his Excellency could not tell me till he received a reply from his colleague. He had written to him to urge expedition in the matter, and hoped to be able to give me a definite answer by the middle of the week.

On my return to St. Petersburgh I called upon M. Veshniakoff, the *alter ego* of the Minister of Domains, and urged on him the desirability of expedition. I found him well disposed towards the proposal, and I may therefore hope that a favourable answer will be given.

On the receipt of your Lordship's telegram of the 9th instant this morning, I addressed to M. de Giers a note embodying its contents, and called in the afternoon on M. Shishkine to urge that it should be immediately sent to the Ministry of Domains. He was not in a position to discuss the merits of this new departure.

I have the honour to transmit herewith copies of Mr. Howard's note of the 4th instant and of mine of to-day's date.

I have, &c.

(Signed) R. B. D. MORIER.

[Inclosure 1 in No. 41.]

Sir R. Morier to M. de Giers.

ST. PETERSBURGH, *May 23 (June 4), 1891.*

M. LE MINISTRE: I have been instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to inform your Excellency that Her Majesty's Government have agreed to a proposal of the United States Government to suspend seal-hunting in the waters and islands of the Behring's Sea until the month of May next year.

The two Powers engage to prevent, to the best of their ability, seal-hunting of every kind on the part of their subjects, with the exception, however, of allowing 7,500 seals to be taken for the support of the Aleuts employed by the Alaska Company. Lord Salisbury adds that, of course, there can be no question of this Agreement being signed unless Russia is willing to become a party to the same, and I am accordingly instructed to inquire of your Excellency whether the Imperial Government would be disposed to co-operate with the other two Powers concerned in effecting the proposed suspension.

I avail, &c.

(For Sir R. Morier),
(Signed) HENRY HOWARD.

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23 [Inclosure 2 in No. 41.]

Sir R. Morier to M. de Giers.

ST. PETERSBURGH, *May 29 (June 10), 1891.*

M. LE MINISTRE: With reference to my note of the 23rd May (4th June), I have now the honour to inform you that I have received instructions from the Marquis of Salisbury to point out to your Excellency that, owing to the Constitutional limits placed upon the powers exercised by the Executive Government of the United States, the proposal of Her Majesty's Government is limited to the enforcement of a close season on land and sea, east of the line fixed by the Treaty of 1867. They are accordingly only anxious that Russia should prohibit her subjects from sealing this year to the east of that line in the open sea (seeing that there is no Russian land on the eastern side of this boundary), and should authorize us to stop vessels under her flag engaged in seal-hunting in those waters. The American Government would appear to be precluded from associating themselves in this request, as they contend that they have a right to exclude ships of every nationality from this portion of the Behring's Sea.

It will clearly be to Russia's interest to grant this request, as a close season to the east of the 1867 line will naturally benefit the fishing on its western side.

I avail, &c.

(Signed) R. B. D. MORIER.

No. 42.

Sir E. Malet to the Marquis of Salisbury.—(Received June 15.)

BERLIN, *June 12, 1891.*

MY LORD: With reference to your Lordship's despatch of the 3rd instant, instructing me to ascertain whether the interest taken by the German Government in the Behring's Sea seal fishery was such as to make it advisable to ask their concurrence in the suspension of the fishery, I have the honour to inform your Lordship that Baron von Marschall told me to-day that his Government did not take sufficient interest in the matter to make it worth their while to enter upon the lengthy but necessary process of submitting the matter to the Reichstag for its sanction to their participation in an Agreement for the suspension of the fishery.

I have, &c.

(Signed) EDWARD B. MALET.

No. 43.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 15.)

[Telegraphic.]

WASHINGTON, *June 15, 1891.*

A proclamation has to-day been issued by the President, of which I shall send the text by mail to-morrow, embodying the terms of the Agreement for the *modus vivendi* in Behring's Sea.

No. 44.

Admiralty to Foreign Office.—(Received June 17.)

ADMIRALTY, *June 16, 1891.*

SIR: With reference to previous correspondence respecting the Behring's Sea seal fishery, I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Secretary of State for Foreign Affairs, copies of telegrams which have this day been sent to the Commander-in-chief in China and the Senior Officer at Esquimalt, directing Her Majesty's ships "Porpoise," "Nymphe," and "Pheasant" to proceed to Behring's Sea for fishery duty, and to carry out the provisions of "The Seal Fishery (Behring's Sea) Act, 1891."

I am, &c.

(Signed) EVAN MACGREGOR.

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24 [Inclosure in No. 44.]

TELEGRAMS SENT TO COMMANDER-IN-CHIEF IN CHINA AND THE SENIOR OFFICER AT ESQUIMALT.

To Senior Officer, Esquimalt.

The following Act of Parliament has been passed:

Article 1, clause 1. Her Majesty the Queen may, by Order in Council, prohibit the catching of seals by British ships in Behring's Sea, or such part thereof as is defined by the said Order during the period limited by the Order.

Clause 2. While an Order in Council under this Act is in force, a person belonging to a British ship shall not kill or take or hunt, or attempt to kill or take, any seal within Behring's Sea during the period limited by the Order, and a British ship shall not, nor shall any of the equipment or crew thereof, be used or employed in such killing, taking, hunting, or attempt.

Clause 3. If there is any contravention of this Act, any person committing, procuring, aiding, or abetting such contravention shall be guilty of a misdemeanour within meaning of "The Merchant Shipping Act, 1854," and the ship and her equipment, and everything on board thereof, shall be forfeited to Her Majesty as if an offence had been committed under section 103 of the said Act, and the provisions of sections 103 and 104 and Part 10 of the said Act shall apply as if they were herein re enacted, and in terms made applicable to an offence and forfeiture under this Act.

Clause 4. Any commissioned officer on full pay in the naval service of Her Majesty shall have power, during the period limited by the Order in Council, to stop and examine any British ship in Behring's Sea and to detain her or any portion of her equipment or any of her crew, if in his judgment the ship is being or is preparing to be used or employed in contravention of this section.

Clause 5. If a British ship is found within Behring's Sea having on board thereof fishing or shooting implements or sealskins or bodies of seals, it shall lie on the owner or master of such ship to prove that the ship was not used or employed in contravention of this Act.

Article 3, clause 1. This Act shall apply to the animal known as the fur-seal, and to any marine animal specified in that behalf by an Order in Council under this Act, and the expression "seal" in this Act shall be construed accordingly.

Clause 2. The expression "Behring's Sea" in this Act means the seas known as Behring's Sea within the limits described in an order under this Act;

Clause 3. The expression "equipment" in this Act includes any boat, tackle, fishing or shooting instruments, and other things belonging to the ship.

Clause 4. This act may be cited as "The Seal Fishery (Behring's Sea) Act, 1891."

Order in Council accordingly has been approved. It will only apply to Behring's Sea, and only that part of Behring's Sea which is east of the Russian-American line: description in separate telegram.

Your instructions are to proceed at once with "Nymphe" and "Pheasant" Behring's Sea and cruize to eastward of above-named line as may be necessary. Every ship under British colours which in your judgment is hunting seals or preparing to

do so, if you think she is acting in ignorance of the prohibition or believes herself to be outside prohibited waters, you may let her go with warning. If a ship is found deliberately offending, confiscate all her equipment necessary for sealing, and record names of ship and master for prosecution afterwards. If you find American vessel deliberately offending, you are authorized by Convention just signed to arrest her, and you should record name of captain and vessel, and proof of offence, informing American authorities. If you can, it will be your duty to co-operate with American cruizers, who will have similar orders. "Nymphe" and "Pheasant" to proceed at once on this duty. "Porpoise" will proceed to Iliuliuk Harbour, Ounalaska, from China, to be under command of "Nymphe," who will give copy instructions for guidance. These vessels to remain on this service until close fishing season. Text of American Proclamation in newspapers of 16th June. Ask for further information on any points not clear to you. Acknowledge receipt by telegram.

To Senior Officer, Esquimalt.

With reference to my telegram of 16th June, line of demarcation proceeds in a course nearly south-west through Behring's Strait and Behring's Sea, so as to pass midway between the north-west point of the Island of St. Lawrence and the south-east point of Cape Tchukotoki to the meridian of 172° west longitude; thence from the intersection of that meridian in a south-westerly direction so as to pass midway between the Island of Attou and the Copper Island of the Kormandorski couplet or group in the North Pacific to the meridian of 167° east longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

To Commander-in-chief, China.

Order "Porpoise" to proceed to rendezvous at Iliuliuk Harbour, Ounalaska, Behring's Sea, for service on fishery duties; will receive orders from "Nymphe." Order necessary charts Hong Kong if "Severn," "Leander," have not got them. Coal ordered from Esquimalt. "Severn," "Leander," "Mercury" are no longer required, and available for ordinary station work. "Porpoise" to report by telegraph date sailing and probable arrival destination.

To Senior Officer, Esquimalt.

Arrange locally to send 1,800 tons coal Iliuliuk Harbour, Ounalaska, Behring's Sea, for "Nymphe," "Pheasant," "Porpoise." Half in time to meet "Nymphe," "Pheasant," remainder as necessary. "Porpoise" joins from China. Report by telegraph arrangements.

No. 45.

The Marquis of Salisbury to Sir R. Morier.

FOREIGN OFFICE, *June 17, 1891.*

SIR: The Russian Ambassador to-day explained to me that it was impossible that his Government should forbid seal-hunting during the present year upon Russian lands and in Russian waters, because they had quite recently leased the seal fisheries to a Company, and as the lease had been solemnly confirmed by the Council of State, it was not in their power to go back upon it now.

I explained to his Excellency that the American Government, not possessing the necessary legal power for arresting American vessels in the western part of Behring's Sea, had restricted its consent to that part of Behring's Sea which lay to the east of the line described in the Russian-American Treaty of 1867. It consequently followed that all that we now had occasion to ask of the Russian Government was that they would permit us to turn back and hinder from seal-hunting any vessels under the Russian flag which might appear to the east of the line to which I have referred.

His Excellency replied that it had been the policy of the Russian Government to discourage pelagic seal-hunting altogether, and to confine it to the Russian islands, as far as they were concerned; and that, as a matter of fact, Russian vessels were not in the habit of hunting seals to the east of the Russian-American line, and were certainly never encouraged to do so. He said that he would transmit to M. de Giers a pressing request.

I am, &c.

(Signed) SALISBURY.

No. 46.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 18.)

WASHINGTON, *June 9, 1891.*

MY LORD: I have the honour to inclose copy of the note which, on receipt of your Lordship's telegram of the 5th instant, I addressed to the Acting Secretary of State inclosing a Memorandum, copy of which is likewise inclosed, giving the substance of your Lordship's above-mentioned telegram on the subject of the proposed *modus vivendi* in Behring's Sea.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

26

[Inclosure 1 in No. 46.]

Sir J. Pauncefote to Mr. Wharton.

WASHINGTON, *June 6, 1891.*

SIR: Immediately on the receipt of your note of the 4th instant, relative to the proposed *modus vivendi* in Behring's Sea, I communicated its contents to the Marquis of Salisbury by telegraph.

I have now the honour to inform you that late last night I received a telegraphic reply from his Lordship, of which the substance is contained in the inclosed Memorandum.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 2 in No. 46.]

Memorandum.

Her Majesty's Government accept the proposal of the President that the *modus vivendi*, if agreed upon, should provide that the naval or other duly commissioned officers of either party may arrest any offending vessel and turn it over at the nearest port of the nation whose flag it carries, for such judicial proceedings as the law provides.

By accepting this proposal, Her Majesty's Government give to the cruizers of the United States the power of supervising the conduct of British subjects in observing the proposed agreement at sea. This is a concession which, in Lord Salisbury's opinion, entitles Her Majesty's Government to ask from the United States the corresponding power of supervising the proceedings of United States citizens on the Seal Islands. It is on the fidelity with which the condition of not killing more than 7,500 seals is observed that the equality of the proposed agreement depends.

Her Majesty's Government, therefore, regard it as indispensable that they should have the right of satisfying themselves that this condition is fully observed by citi-

zens of the United States. If there be an objection on the part of the United States Government to issuing an exequatur to a permanent Consul on the Seal Islands, Lord Salisbury suggests that they can under the Statute specially authorize the residence thereon of a British Agent during the present season.

His Lordship will not insist on the condition that Russia shall be a party to the Agreement, but he must earnestly press the United States Government to extend the prohibition to their citizens and vessels over the entire area of Behring's Sea. In that case Her Majesty's Government, on their part, will similarly extend the prohibition to British subjects and vessels.

Lord Salisbury points out that, if seal-hunting be prohibited on one side of a purely imaginary line drawn in the open ocean, while it is permitted on the other side of the line, it will be impossible in many cases to prove unlawful sealing, or to infer it from the possession of skins or fishing tackle. In conclusion, Lord Salisbury states that Her Majesty's Government consider it a matter of great importance that the two Governments should agree on the terms of arbitration at the same time as on a *modus vivendi*. The suspension of sealing is not a measure which they could repeat another year.

No. 47.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 18.)*

WASHINGTON, *June 9, 1891.*

MY LORD: With reference to my telegram of the 6th instant, I have the honour to inclose copy of the note which I received on that day from the United States Government respecting the proposed *modus vivendi* in Behring's Sea.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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27 [Inclosure in No. 47.]

Mr. Wharton to Sir J. Pauncefote.

WASHINGTON, *June 6, 1891.*

SIR: I am directed by the President to say that he has received with great satisfaction the note of Lord Salisbury of to-day's date in reply to my note of the 4th instant. He directs me to ask you to remind Lord Salisbury that the limitation of the killing of seals upon the islands is absolutely within the control of the United States, as a daily count is made by sworn officers, and to inform him that already, in order to insure such control pending these negotiations, the agents of the Treasury Department who have been dispatched to the Seal Islands, have been instructed to stop the killing when 7,500 have been taken, and to await the arrival of further orders; though ordinarily the taking of the seals on the islands does not begin until about the 1st July. The enforcement of an agreed limitation being so fully in the control of the United States, the President is sure that Lord Salisbury will not question the absolute good faith of this Government in observing its stipulation to limit the catch to 7,500. This Government could not, of course, consent to any arrangement that implied such a doubt, or involved any foreign supervision on the islands.

If the prompt and effectual recall of the fleet of Canadian sealers now at sea was as fully within the control of Great Britain, the President would not have suggested the provision for the arrest by either party of vessels violating the prohibition, but would have rested confidently in the assurance given by Her Majesty's Government.

But, in view of the fact that the evidence which the respective Governments will present to the Arbitrators (if that happy solution of the pending difficulties shall be attained) must be collected during the present season, and as the definitive Agreement for arbitration cannot be concluded contemporaneously with this Agreement, the President directs me to say that he is quite willing to agree that Her Majesty's Government may send to the Seal Islands with a view to collecting the facts that may be involved in an arbitration, and especially facts relating to seal life and to

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* Substance telegraphed on June 6.

the results of the methods which have been pursued in the killing of seals, a suitable person or persons to make the necessary observations. The present and the comparative conditions of the rookeries may become an important consideration before Arbitrators in a certain event, and the President would not ask that the evidence upon this subject should be wholly from one side. He is desirous that the prohibition of the killing of seals for this season shall be as wide and absolute as possible, and will not omit the exercise of any power confided to him by law to promote that end.

He directs me to assure Lord Salisbury that he is extremely desirous to bring to a speedy conclusion the pending negotiations for the submission to impartial Arbitrators of the points of difference between the two Governments, and regrets that, for reasons which have been explained to you, an immediate answer cannot be returned to his Lordship's note upon that subject of the 2nd instant. He feels sure, however, that the prompt announcement of an agreement for a *modus vivendi* for this season, while there is yet time to make it mutually effective, will not fail to have a happy influence upon the final negotiation.

It is hoped that authority may be given to you, as the Representative of Her Majesty's Government at this capital, to conclude immediately, upon the passage of the Bill now pending in Parliament, the following agreement:

For the purpose of avoiding irritating differences, and with a view to promote a friendly settlement of the questions pending between the Government of Great Britain on the one side, and the United States of America on the other, touching the rights of the respective nations in the Behring's Sea, the following agreement is made, which shall have no effect to limit or prejudice the rights or claims of either Power except as therein expressly stipulated and for the time therein limited:

1. The Government of Great Britain will prohibit until May 1892 the killing of seals in all that part of the Behring's Sea lying east, eastwardly, or south-eastwardly of the line described in Article I of the Convention between the United States and Russia, of the 30th March, 1867, and will promptly take such steps as are best calculated effectively to insure the observance of this prohibition by the subjects and citizens of Great Britain, and all vessels flying its flag.

2. The Government of the United States will prohibit until May 1892 the killing of seals in that part of Behring's Sea above described, and on the shores and islands thereof, the property of the United States (except that 7,500 seals and no more may be taken on the islands), and the Government of the United States will promptly
28 take such steps as are best calculated effectively to assure the observance of this prohibition by the citizens of the United States, and the vessels flying its flag.

3. All vessels or persons violating the laws of their respective Governments in this regard outside the ordinary territorial limits may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong for trial and for the imposition of the penalties and forfeitures provided by law.

4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make with a view to the presentation of the case of that Government before Arbitrators, and in the expectation that an agreement for arbitration may ultimately be reached, it is agreed that a suitable person or persons to be designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season, for that purpose.

I have, &c.

(Signed) W. F. WHARTON.

No. 48.

Colonial Office to Foreign Office.—(Received June 18.)

DOWNING STREET, *June 17, 1891.*

SIR: With reference to your letter of the 10th instant, I am directed by Lord Knutsford to transmit to you a copy of the reply which he caused to be returned to the letter from the High Commissioner for Canada, forwarding a protest from the British Columbia Board of Trade against the prohibition of sealing in Behring's Sea this season. I am, at the same time, to transmit to you, to be laid before the Marquis of

Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding copies of telegraphic protests against the prohibition from the Premier of British Columbia, and from the British Columbian sealers.

Lord Knutsford proposes, if Lord Salisbury concurs, to refer the Governor-General to the despatch which has been sent to him containing the correspondence with the High Commissioner, and to desire him to reply to these telegrams in similar terms to the reply addressed to the High Commissioner on the 13th instant.*

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 48.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, June 3, 1891.*

MY LORD: With reference to my telegram of to-day, I have the honour to inclose herewith copies of telegrams from the Premier of British Columbia, and from the British Columbia sealers, protesting against the Bill prohibiting sealing in the Behring's Sea.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 48.—Telegraphic.]

Mr. Robson to Mr. Dewdney.

JUNE 2, 1891.

British Columbia sealers strongly protest against close season this year as it would ruin them, all their preparations and contracts having been made. Please wire me when it is intended closed season shall commence.

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[Inclosure 3 in No. 48.—Telegraphic.]

Mr. Cox to Mr. Tupper.

JUNE 1, 1891.

British Columbia sealers ask you to protest against Bill prohibiting sealing Behring's Sea. Very unjust to us. Heavy capital invested; would ruin many here.

[Inclosure 4 in No. 48.]

Colonial Office to Sir C. Tupper.

DOWNING STREET, *June 13, 1891.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 3rd instant, forwarding copy of a telegram from the President of the Board of Trade of British Columbia, protesting against the proposed prohibition of sealing in Behring's Sea this season.

I am to point out to you, in reply, that as the total cessation of sealing in Behring's Sea will greatly enhance the value of the produce of the coast fishery, Her Majesty's Government do not anticipate that British sealers will suffer to any great extent by exclusion from Behring's Sea.

They will be prepared, however, to consider any case in which it is clearly established that direct loss has been suffered by a British subject through the enforcement of the prohibition against sealing in Behring's Sea.

I am, &c.

(Signed) JOHN BRAMSTON.

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* See No. 18, and Inclosure 4 in No. 48, *infra*.

No. 49.

Colonial Office to Foreign Office.—(Received June 18.)

DOWNING STREET, *June 18, 1891.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a paraphrase of a telegram which was sent to the Governor-General of Canada respecting the nomination of the British members of the Commission of Experts, together with a paraphrase of the reply which has been received.

Lord Knutsford presumes that Lord Salisbury will submit the names of Sir G. Baden-Powell and Mr. Dawson for Her Majesty's approval.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 49.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *June 16, 1891.*

Please inform me by telegraph as soon as you can of the name of Canadian expert to be associated with Sir George Baden-Powell. The names have to be submitted to Her Majesty. It is proposed that Sir G. Baden-Powell should proceed shortly to Ottawa to consult with your Government.

[Inclosure 2 in No. 49.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, June 17, 1891.*

MY LORD: I had the honour to send to your Lordship to-day a telegraphic message in cypher, of which the following is the substance:

With reference to your message of yesterday's date, Dawson, of the Geological Survey of Canada, is recommended by the Dominion Government.

You could not, I think, have a better representative.

Baden-Powell's appointment is concurred in by the Canadian Government.

I have, &c.

(Signed) STANLEY OF PRESTON.

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No. 50.

The Marquis of Salisbury to Sir R. Morier.

FOREIGN OFFICE, *June 18, 1891.*

SIR: With reference to your despatch of the 10th instant, I transmit herewith, for your Excellency's information, two copies of the text of an Agreement between this country and the United States which Sir J. Pauncefote has been authorized to sign for a *modus vivendi* in Behring's Sea until May 1892.

Sir J. Pauncefote has reported, by telegraph, that this Agreement was signed at Washington on the 15th instant.

As soon as the Agreement is received as signed, a copy will be forwarded to you for communication to the Russian Government.

I am, &c.

(Signed) SALISBURY.

No. 51.

The Marquis of Salisbury to Sir R. Morier.

FOREIGN OFFICE, *June 19, 1891.*

SIR: I have received your Excellency's despatch of the 10th instant, reporting a conversation with M. de Giers respecting the proposal that Russia should join in the Agreement for a *modus vivendi* in Behring's Sea which was in negotiation, and has since been concluded between this country and the United States.

Your Excellency's proceedings with regard to this matter are approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 52.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *June 19, 1891.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 17th instant, inclosing a copy of a despatch from Lord Stanley of Preston, with copies of telegrams from the Premier of British Columbia and the British Columbian sealers protesting against the prohibition of sealing in Behring's Sea for this season.

I am to request that you will state to the Secretary of State for the Colonies that his Lordship concurs in the reply which it is proposed to return to the Governor-General's despatch.

I am, &c.

(Signed) T. H. SANDERSON.

No. 53.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 20.)

[Telegraphic.]

WASHINGTON, *June 20, 1891.*

With reference to Behring's Sea negotiations, the return of the President to Washington from the seaside is expected on Tuesday, the 23rd, and at the State Department I am assured that he will then proceed at once with the subjects that remain for negotiation. All preparations for this purpose have been made, and I pressed urgently that during his absence negotiations might still go on; but the President's assent could not be obtained.

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31 No. 54.

The Marquis of Salisbury to Sir. J. Pauncefote.

FOREIGN OFFICE, *June 20, 1891.*

SIR: I have received your despatch of the 9th instant, inclosing copies of a note and Memorandum addressed by you to the United States Acting Secretary of State, on the proposed *modus vivendi* in Behring's Sea.

The terms of your communication are approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 55.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 21.)

[Telegraphic.]

WASHINGTON, *June 21, 1891.*

The United States Government have furnished me with a copy of the instructions issued to their cruizers, under the 3rd Article of the *modus vivendi.*

I am sending a copy of the note inclosing them to your Lordship by next mail.

The following is a summary of them:

The "Mohican," the "Thetis," and the "Alert," and possibly other cruizers, will be employed in Behring's Sea.

The "Thetis" is to proceed immediately to Sand Point, the rendezvous of the Canadian sealers, before they enter Behring's Sea, and distribute copies of the President's Proclamation, giving notice to all sealing-vessels, and taking a list of all vessels warned. She will proceed to Ounalaska as soon as the Canadian catch has been transhipped at Sand Point, about July 1.

The "Mohican" and "Alert" will proceed at once to the seal islands and cruize two weeks in Behring's Sea, distributing the President's Proclamation, and warn all vessels found engaged in sealing to leave the prohibited waters immediately, recording, by an entry in the vessel's log, that she has been warned. Both will then rendezvous with the "Thetis" at Ounalaska, whither all persons and vessels seized are to be sent. A chartered steamer will be ready at this port with a marine guard to assist in handing over the persons and vessels seized to their respective authorities.

The United States Government would be glad to have a copy of the instructions which have been issued to Her Majesty's ships detailed for service in Behring's Sea.

No. 56.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 22.)

WASHINGTON, *June 12, 1891.*

MY LORD: With reference to my telegrams of the 9th, 10th, and 11th June, I have the honour to inclose herewith copies of the correspondence referred to therein, relative to a *modus vivendi* in Behring's Sea.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 56.]

Sir J. Pauncefote to Mr. Wharton.

WASHINGTON, *June 8, 1891.*

SIR: I have the honour to acknowledge the receipt of your note of the 6th instant, containing the terms of a proposed Agreement for a *modus vivendi* during the present seal fishery season in Behring's Sea, which I communicated at once by telegraph to the Marquis of Salisbury.

I have this day received a reply from his Lordship, in which he transmits a draft of the proposed Agreement, with certain modifications and additions.

I beg to inclose a copy of it, and to request that you will be good enough to submit it to your Government for their consideration.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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32 [Inclosure 2 in No. 56.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 9, 1891.*

SIR: I am directed by the President, in response to your note of the 8th June, delivered this morning, to say that he regrets that at the moment when the two Governments seemed to have reached an agreement in this matter, which is one calling for the utmost promptness of action, new conditions should be suggested by Lord Salisbury. With the acceptance of the proposition submitted in my last note relating to permission to British agents to visit the seal islands, an agreement had been reached upon all the conditions that had been previously discussed or suggested in this connection. The President does not object to the modification of his proposal suggested in the first Article submitted by you, for he assumes that the terms used, while not as strong perhaps as those suggested by this Government, do fully commit the Government of Great Britain to prompt and energetic measures in the repression of the killing of seals by the subjects and vessels of that nation.

The proposals submitted by you on the 3rd June contain this clause:

"During the period above specified the United States Government shall have the right to kill 7,500 seals." Now his Lordship adds a most extraordinary and not altogether clear condition (I quote): "to be taken on the shores and islands as food skins, and not for tax or shipment."

This new condition is entirely inadmissible, and, in the opinion of the President, inconsistent with the assent already given by Her Majesty's Government to the proposition of the United States in that behalf.

It had been particularly explained in the correspondence that the lessees of the privilege of taking seals upon the islands assumed obligations to supply to the natives the food and other things necessary for their subsistence and comfort, and that the taking of the limited number of seals was not only to supply flesh to the natives, but, in some part, to recompense the Company for furnishing other necessary articles of food, clothing, and fuel. The President is surprised that it should now be suggested that none of these skins should be removed from the islands, and he cannot understand how British interests can be promoted by allowing them to go to waste.

The previous communications of Her Majesty's Government had, in the opinion of President, concluded this matter.

As to the third clause of your proposition, I am directed to say that the contention between the United States and Great Britain has relation solely to the respective rights of the two Governments in the waters of Behring's Sea outside of the ordinary territorial limits, and the stipulations for the co-operation of the two Governments during this season have, of course, the same natural limitation.

This is recognized in Articles 1 and 2 of your proposal, for you will observe that the obligation assumed by Her Majesty's Government is to prohibit seal-killing in a certain part of Behring's Sea, whereas the obligation assumed in the second Article by the Government of the United States is to prohibit seal-killing in the same part of Behring's Sea, and the shores and islands thereof the property of the United States.

The killing, therefore, of seals on the islands, or within the territorial waters of the United States, falls only within the prohibition of this Government. His Lordship will also see that it is altogether beyond the power of the President to stipulate that an offence committed in the undisputed territory of the United States

against its laws shall be triable only in the Courts of another nation. The extension of this clause to the territory and territorial waters of the United States, therefore, involves an insuperable legal difficulty on our part, and a concession which no independent Government could be expected to make. The mutual police which is to be stipulated for could not in the nature of things apply to the territorial waters within the undisputed and exclusive jurisdiction of either.

To the fourth clause, which is in substance the same as the proposition made by this Government, no objection is interposed.

As to the fifth clause, I am directed to say that the President regards the proposition to appoint a Joint Commission to investigate and report as to what Regulations or International Agreements are necessary to preserve the seal fisheries to be one of the incidents of the Agreement for Arbitration, and to have no proper place here. This distinction seems to have been recognized by his Lordship, and his proposal of such a Commission was made part of the separate note discussing the terms of arbitration presented by you on the 3rd June, and has never until now appeared in
33 the correspondence relating to a *modus vivendi*. The President thinks the fourth clause, which has been accepted, makes ample present provision, but will give a full consideration to the suggestion of a Joint Commission in connection with the negotiation for arbitration.

To the sixth and last clause, the President directs me to say that so far as he is aware no vessel bearing the Russian flag has at any time intruded into the waters described in the proposed Agreement. He is entirely in sympathy with the expressed desire of Lord Salisbury to secure such limitations as to the hunting of seals in the whole of Behring's Sea as will preserve to mankind this valuable industry, but he does not think that an agreement to unite in any joint note to Russia should be interposed here and at this time. Moreover, Lord Salisbury will perceive that, in the present state of the American law, if Russia should ask for reciprocal action by this Government west of the Treaty line, the President would be confronted with the same difficulty that prevented him from extending the Agreement with Her Majesty's Government to the whole of Behring's Sea.

As the President understands, the adhesion of the two Governments has been given in this correspondence to the following propositions:

"For the purpose of avoiding irritating differences, and with a view to promote friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for the preservation of the seal species, the following Agreement is made without prejudice to the rights or claims of either party:

"Article 1. Her Majesty's Government will prohibit until May next seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

"Art. 2. The United States Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observation of this prohibition by United States citizens and vessels.

"Art. 3. Every vessel or person offending against this prohibition in the said waters of Behring's Sea, outside of the ordinary territorial limits of the United States, may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties; but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

"Art. 4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make with a view to the presentation of the Case of that Government before Arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose."

The President directs me to inform you that the Government of the United States is ready to conclude this Agreement if it can be put into force immediately. The value of such an Agreement to the United States is daily lessening, and the President therefore feels that he must ask that the negotiations be brought to a speedy determination.

I have, &c.

(Signed) W. F. WHARTON.

[Inclosure 3 in No. 56.]

Sir J. Pauncefote to Mr. Wharton.

WASHINGTON, *June 10, 1891.*

SIR: I have the honour to acknowledge the receipt of your note of the 9th June, delivered this day, in reply to my note of the 8th, in which I transmitted, for the consideration of your Government, the draft of the proposed Agreement for a *modus vivendi* during the present fur-seal fishery season in Behring's Sea, with certain modifications and additions suggested therein by the Marquis of Salisbury.

I have telegraphed the substance of your note under reply to his Lordship, and I hope to be able to communicate to you his observations thereon in the course
34 of to-morrow or the following day. In the meanwhile, with reference to the complaint that new conditions should have been suggested at this stage by Lord Salisbury. I would beg leave to point out that all his Lordship's suggestions are obviously dictated by a desire to render the *modus vivendi* more effective, and to do all that is possible in the common interest for the protection and preservation of the seal species during the present season. In my humble opinion, therefore, it is to be regretted that those suggestions should not have commended themselves to the favourable consideration of the President. Thus, the object of the proposed insertion in Article 2 of the words, "food skins, and not for tax and shipment," which you qualify as extraordinary, was not to prevent the export and sale of the 7,500 food skins, of which the proceeds were intended to cover the cost of food, clothing, fuel, and other necessaries for the natives. Its sole object was to stop the injurious practice of driving and redriving the herds to the killing grounds for selection, which is resorted to in the case of seals killed for "tax and shipment," and is stated by experts to be the main cause of the depletion of male seal life on the islands.

I would refer you on this point to the Report of Special Treasury Agent Ch. J. Goff, laid before Congress (Ex. Doc. 49), pp. 2 and 29. Also to the Report of Assistant Treasury Agent Joseph Murray, at p. 8, and that of Assistant Treasury Agent A. W. Lavender, at p. 9 of the same Congressional Paper.

As regards Lord Salisbury's proposal of the Joint Commission, it is by no means a new one. It has long been called for by public opinion in both countries. It was inserted among Lord Salisbury's last proposals for the Arbitration Agreement, in the expectation that the latter document would be signed contemporaneously with the Agreement for a *modus vivendi;* but, as your Government is not prepared to bring the arbitration negotiation to a conclusion without further consideration, and as it is of the highest importance that the Joint Commission should be appointed at once, in order to enter upon its functions during the present fishery season, Lord Salisbury has had no alternative but to urge the insertion of the Article providing for a Joint Commission in the Agreement for the *modus vivendi*, of which it should, in the opinion of Her Majesty's Government, be a component part. The objection of the President to that Article in the *modus vivendi* appears to me to create the greatest difficulty which has yet presented itself in the course of this negotiation, and I earnestly hope that if Lord Salisbury should be disposed to waive the other conditions to which exception is taken in your note, the President will on his part accede to his Lordship's wishes in respect of the Joint Commission.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 4 in No. 56.]

Sir J. Pauncefote to Mr. Wharton.

WASHINGTON, *June 11, 1891.*

SIR: With reference to my note of yesterday, and especially to the concluding part of it, I have the honour to inform you that I have this day received by telegraph from the Marquis of Salisbury a reply to the proposal for a *modus vivendi* during the present fur-seal fishery season in Behring's Sea contained in your note of the 9th June.

His Lordship states that the President's refusal to adopt his suggestion with respect to Russia renders the proposed *modus vivendi* much less valuable, and that he is reluctant to abandon the words which he had proposed for insertion in Article 2 in relation to the reservation of the 7,500 seals to be killed on the islands.

Nevertheless, in view of the urgency of the case, his Lordship is disposed to authorize me to sign the Agreement in the precise terms formulated in your note of the 9th June, provided the question of a Joint Commission be not left in doubt, and that your

Government will give an assurance in some form that they will concur in a reference to a Joint Commission to ascertain what permanent measures are necessary for the preservation of the fur-seal species in the Northern Pacific Ocean.

I have the honour, therefore, to inquire whether the President is prepared to give that assurance, and, if so, I shall, on receipt of it, lose no time in communicating it by telegraph to Lord Salisbury, and in applying to his Lordship for authority to sign the proposed Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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35 [Inclosure 5 in No. 56.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 11, 1891.*

SIR: I have the honour to acknowledge the receipt of your note of to-day's date, and, in reply, I am directed by the President to say that the Government of the United States, recognizing the fact that full and adequate measures for the protection of seal life should embrace the whole of Behring's Sea and portions of the North Pacific Ocean, will have no hesitancy in agreeing, in connection with Her Majesty's Government, to the appointment of a Joint Commission to ascertain what permanent measures are necessary for the preservation of the seal species in the waters referred to; such an Agreement to be signed simultaneously with the Convention for arbitration, and to be without prejudice to the questions to be submitted to the Arbitrators.

A full reply to your note of the 3rd June, relating to the terms of arbitration, will not be long delayed.

I have, &c.

(Signed) WILLIAM F. WHARTON.

No. 57.

Sir E. Malet to the Marquis of Salisbury.—(Received June 22.)

BERLIN, *June 18, 1891.*

MY LORD: With reference to your Lordship's despatch of the 3rd instant, and to mine of the 12th instant, I have the honour to inform your Lordship that Baron von Marschall told me to-day that he intends to publish in the official Gazette a translation of the Agreement between England and the United States in regard to the Behring's Sea seal fishery, and to accompany it with an injunction to German subjects to observe its regulations.

I have, &c.

(Signed) E. B. MALET.

No. 58.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 22, 1891.*

I have received your telegram of yesterday, containing a summary of the instructions issued by the United States Government to their cruizers for carrying into effect the *modus vivendi* Agreement in Behring's Sea,

The following are the instructions issued to the Senior Naval Officer of Her Majesty's ships at Esquimalt:

He is to proceed with Her Majesty's ship "Nymphe" and Her Majesty's ship "Pheasant" to Behring's Sea, to cruize to the eastward of the line of demarcation as he may find necessary, and to warn all British ships which he may find acting contrary to the Agreement between the two Governments, and in ignorance of its provisions. Should he find a ship deliberately offending, her sealing equipment is to be confiscated, and the names of the ship and master are to be recorded for the purpose of prosecution subsequently. Should he find an American ship deliberately offending, he is to arrest her, the names of the captain and vessel and proof of offence are to be recorded, and the American authorities are to be informed.

He has orders to co-operate with the American cruizers.

Her Majesty's ship "Porpoise" will be also under his command, and has for that purpose been ordered to join him from the China Station.

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36 No. 59.

Admiralty to Foreign Office.—(Received June 23.)

ADMIRALTY, *June 22, 1891.*

SIR: My Lords Commissioners of the Admiralty having received a copy of Sir J. Pauncefote's telegraphic despatch of the 21st June, 1891, giving the substance of the instructions issued by the Government of the United States to cruizers about to proceed to Behring's Sea, and requesting that a copy of the British instructions may be sent, I am commanded by their Lordships to transmit herewith a copy of the telegraphic instructions sent to the Senior Naval Officer at Esquimalt on the 16th June.*

From this it will be seen that the five clauses of Article 1 and four clauses of Article 3 of "The Seal Fishery (Behring's Sea) Act, 1891," have been telegraphed in full, together with the definition of the Russian-American line of demarcation, with additional instructions, as marked in red ink, in the margin of the inclosure to this letter.

Her Majesty's ships "Nymphe" and "Pheasant" will, under these orders, leave Esquimalt on or about the 26th instant, and will be joined by Her Majesty's ship "Porpoise," from China, about the 21st July.

I am, &c.

(Signed) EVAN MACGREGOR.

No. 60.

Council Office to Foreign Office.—(Received June 24.)

COUNCIL OFFICE, *Whitehall, June 24, 1891.*

SIR: I am directed by the Lord President of the Council to transmit to you the accompanying Order of Her Majesty in Council of the 23rd instant, entitled, "The Seal Fishery (Behring's Sea) Order in Council, 1891."

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* See Inclosure in No. 44.

Directions have been given for the publication of this Order to-day in a Supplement to yesterday's "London Gazette," and I am to request that you will lay the same before the Secretary of State for Foreign Affairs.

I am, &c.

(Signed) C. L. PEEL.

[Inclosure in No. 60.]

At the Court at Windsor, the 23rd day of June, 1891.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY.

Lord President.	Earl of Limerick.
Marquis of Salisbury.	Lord Arthur Hill.

Whereas by "The Seal Fishery (Behring's Sea) Act, 1891," it is enacted that Her Majesty the Queen may by Order in Council prohibit the catching of seals by British ships in Behring's Sea, or such part thereof as is defined by the said Order, during the period limited by the Order:

And whereas the expression "Behring's Sea" in the said Act means the seas known as Behring's Sea within the limits described in an Order under the said Act:

Now, therefore, Her Majesty, in virtue of the powers vested in her by the said recited Act, by and with the advice of her Privy Council, is hereby pleased to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Seal Fishery (Behring's Sea) Order in Council, 1891.

2. From and after the 24th day of June, 1891, until the 1st day of May, 1892, the catching of seals by British ships in Behring's Sea as hereinafter defined is hereby prohibited.

37 3. For the purposes of the said recited Act and of this Order the expression "Behring's Sea" means so much of that part of the Pacific Ocean known as Behring's Sea as lies between the parallel of 65° 30′ north latitude and the chain of the Aleutian Islands, and eastward of the following line of demarcation, that is to say, a line commencing at a point in Behring's Straits on the said parallel of 65° 30′ north latitude, at its intersection by the meridian which passes midway between the Islands of Krusenstern or Innalook and the Island of Ratmanoff or Noonarbook; and proceeding thence in a course nearly south-west through Behring's Straits and the seas known as Behring's Sea, so as to pass midway between the north-west point of the Island of St. Lawrence and the south-east point of Cape Choukotski to the meridian of 172° west longitude; thence from the intersection of that meridian in a south-westerly direction, so as to pass midway between the Island of Attou and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean, to the meridian of 193° west longitude.

(Signed) C. L. PEEL.

No. 61.

Sir R. Morier to the Marquis of Salisbury.—(Received June 24.)

[Telegraphic.]

ST. PETERSBURGH, *June 24, 1891.*

I have the honour to inquire of your Lordship whether, by the 3rd section of the Agreement to prohibit the killing of seals in certain parts of the Behring's Sea, the two Contracting Parties are empowered to seize and detain vessels other than British or American, as also persons other than American citizens or British subjects.

No. 62.

The Marquis of Salisbury to Sir G. Baden-Powell and Dr. Dawson.

FOREIGN OFFICE, *June 24, 1891.*

GENTLEMEN: The Queen having been graciously pleased to appoint you to be her Commissioners for the purpose of inquiring into the conditions of seal life in Behring's Sea and other parts of the North Pacific Ocean, I transmit to you herewith Her Majesty's Commission under the Sign Manual to that effect.

The main object of your inquiry will be to ascertain, "What international arrangements, if any, are necessary between Great Britain and the United States, and Russia or any other Power, for the purpose of preserving the fur-seal race in Behring's Sea from extermination?"

Her Majesty's Government have proposed to the United States that the investigation should be conducted by a Commission to consist of four experts, of whom two shall be nominated by each Government, and a Chairman, who shall be nominated by Arbitrators.

If the Government of the United States agree to this proposal, you will be the Delegates who will represent Great Britain in the Commission.

But in the meanwhile it is desirable that you should at once commence your examination of the question, and that for that purpose you should proceed as soon as you conveniently can to Vancouver, from whence the Lords Commissioners of the Admiralty have been requested to provide for your conveyance to the various sealing grounds and other places which it may be expedient for you to visit.

Application has been made to the United States Government for permission for you to visit the seal islands under their jurisdiction, and a similar request will be addressed to the Russian Government in the event of your finding it necessary to visit the Commander Islands and other Russian sealing grounds.

Your attention should be particularly devoted to ascertaining—

1. The actual facts as regards the alleged serious diminution of seal life on the Pribyloff Islands, the date at which such diminution began, the rate of its progress, and any previous instance of a similar occurrence.

2. The causes of such diminution; whether, and to what extent, it is attributable—

(*a.*) To a migration of the seals to other rookeries.

(*b.*) To the method of killing pursued on the islands themselves.

(*c.*) To the increase of sealing upon the high seas, and the manner in which it is pursued.

38 I need scarcely remind you that your investigation should be carried on with strict impartiality, that you should neglect no sources of information which may be likely to assist you in arriving at a sound conclusion, and that great care should be taken to sift the evidence that is brought before you.

It is equally to the interest of all the Governments concerned in the sealing industry that it should be protected from all serious risk of extinction in consequence of the use of wasteful and injudicious methods.

You will be provided with all the documentary evidence in the possession of this Department which is likely to be of assistance to you in the prosecution of your inquiry.

Mr. A. Froude has been appointed to be your Secretary, and will accompany you on your tour.

Separate despatches will be addressed to you with regard to the expenses of your mission, and the form in which your correspondence with this Office should be conducted.

I am, &c.

(Signed) SALISBURY.

No. 63.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received June 25.*)

WASHINGTON, *June 16, 1891.*

MY LORD: With reference to your Lordship's telegram of the 13th instant, authorizing me to sign the Agreement for a *modus vivendi* in Behring's Sea, instructing me at the same time to record that I signed it on the clear understanding that the Commission of Experts would be appointed without delay to visit the seal islands, I have now the honour to transmit to your Lordship a copy of a note which I addressed to the Honourable William Wharton, Acting Secretary of State, in the above sense, as well as a copy of his reply thereto.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 63.]

Sir J. Pauncefote to Mr. Wharton.

WASHINGTON, *June 13, 1891.*

SIR: I lost no time in telegraphing to the Marquis of Salisbury the contents of your note of the 11th June, conveying the assent of your Government to the appointment, in connection with Her Majesty's Government, of a Joint Commission for the purposes mentioned in my note to you of the same date, such Agreement to be signed simultaneously with the Convention for Arbitration, and to be without prejudice to the questions to be submitted to the Arbitrators. I informed his Lordship, at the same time, that in handing me the note under reply you had assured me that the President was anxious that the Commission should be appointed in time to commence its work this season, and that your Government would, on that account, use their utmost efforts to expedite the signature of the Arbitration Convention.

I now have the honour to inform you that I have this day received a telegraphic reply from his Lordship, in which, while conveying to me authority to sign the proposed Agreement for a *modus vivendi* contained in your note of the 9th June, Lord Salisbury desires me to place on record that it is signed by me on the clear understanding that the Joint Commission will be appointed without delay.

On that understanding, therefore, I shall be prepared to attend at the State Department, for the purpose of signing the Agreement, at such time as you may be good enough to appoint.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 2 in No. 63.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 13, 1891.*

SIR: The President directs me to say, in response to your note of this date, that his assent to the proposition for a Joint Commission, as expressed in my note of the 9th June, was given in the expectation that both Governments would use every

proper effort to adjust the remaining points of difference in the general correspondence relating to arbitration, and to agree upon the definite terms of a submission, and of the appointment of a Joint Commission without unnecessary delay.

He is glad that an agreement has finally been reached for the pending season, and I beg to say that, if you will call at the Department at 10 o'clock on Monday next, I will be glad to put into writing and give formal attestation to the *modus vivendi* which has been agreed upon.

I have, &c.

(Signed) W. F. WHARTON.

No. 64.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 25.)

WASHINGTON, *June 16, 1891.*

My LORD: I have the honour to transmit herewith copy of the Agreement for the *modus vivendi* in Behring's Sea, which I signed yesterday in accordance with the instructions contained in your Lordship's telegram of the 14th instant.

I will forward the original Agreement by next mail.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 64.]

Agreement between the Government of Her Britannic Majesty and the Government of the United States for a Modus Vivendi in relation to the Fur-seal Fisheries in Behring's Sea.

For the purpose of avoiding irritating differences, and with a view to promote the friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for the preservation of the seal species, the following Agreement is made without prejudice to the rights or claims of either party:

1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

2. The United States Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States citizens and vessels.

3. Every vessel or person offending against this prohibition in the said waters of Behring's Sea outside of the ordinary territorial limits of the United States may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with a view to the presentation of the Case of that Government before Arbitrators, and in expectation that an Agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose.

Signed and sealed in duplicate at Washington, this 15th day of June, 1891, on behalf of their respective Governments, by Sir Julian Pauncefote, G. C. M. G., K. C. B., Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, and William F. Wharton, Acting Secretary of State of the United States.

(Signed) JULIAN PAUNCEFOTE.
WILLIAM F. WHARTON.

No. 65.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received June 25.*)

WASHINGTON, *June 16, 1891.*

MY LORD: With reference to my telegram of yesterday's date, I have the honour to transmit herewith to your Lordship copy of the Proclamation which has been issued by the President giving effect to the Agreement for a *modus vivendi* in Behring's Sea for the present season.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 65.]

Modus Vivendi respecting the Fur-seal Fisheries in Behring's Sea.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A Proclamation.

Whereas an Agreement for a *modus vivendi* between the Government of the United States and the Government of Her Britannic Majesty, in relation to the fur-seal fisheries in Behring's Sea, was concluded on the 15th day of June, in the year of our Lord 1891, word for word as follows:

"*Agreement between the Government of the United States and the Government of Her Britannic Majesty for a Modus Vivendi in relation to the Fur-seal Fisheries in Behring's Sea.*

"For the purpose of avoiding irritating differences, and with a view to promote the friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for the preservation of the seal species, the following Agreement is made without prejudice to the rights or claims of either party.

"1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

"2. The United States Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States citizens and vessels.

"3. Every vessel or person offending against this prohibition in the said waters of Behring's Sea outside of the ordinary territorial limits of the United States may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

"4. In order to facilitate such proper inquires as her Majesty's Government may desire to make, with a view to the presentation of the Case of that Government before Arbitrators, and in expectation that an Agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose.

41 "Signed and sealed in duplicate at Washington, this 15th day of June, 1891, on behalf of their respective Governments, by William F. Wharton, Acting Secretary of State of the United States, and Sir Julian Pauncefote, G. C. M. G., K. C. B., Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary.

[SEAL.] "WILLIAM F. WHARTON.
[SEAL.] "JULIAN PAUNCEFOTE."

Now, therefore, be it known that I, Benjamin Harrison, President of the United States of America, have caused the said Agreement to be made public, to the end

that the same and every part thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 15th day of June, in the year of our Lord 1891, and of the Independence of the United States the 115th.

[SEAL.] (Signed) BENJ. HARRISON.

By the President:

(Signed) WILLIAM F. WHARTON,
Acting Secretary of State.

No. 66.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received June 25.*)

[Telegraphic.]

WASHINGTON, *June 25, 1891.*

Your Lordship's telegram of the 2nd instant: Behring's Sea arbitration.

I have this evening received the following note from the Acting Secretary of State:

[See Inclosure in Sir J. Pauncefote's despatch of the 26th June: Inclosure in No. 82, *infra.*]

No. 67.

The Marquis of Salisbury to Sir R. Morier.

[Telegraphic.]

FOREIGN OFFICE, *June 25, 1891.*

In reply to your telegram of yesterday, I have to inform you that the Agreement for a *modus vivendi* in Behring's Sea is only applicable to the subjects or citizens of the two Contracting Powers.

General jurisdiction over the whole region specified in the Agreement has been claimed by the United States, but this claim has been disputed by Her Majesty's Government.

No. 68.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *June 26, 1891.*

Sir George Baden-Powell is waiting to start on his mission to inquire into the conditions of seal life in Behring's Sea, and the season is running out.

You should urge the United States Government to give the necessary permission to the British Commissioners to visit the Pribyloff Islands without delay.

No. 69.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 26.)

[Telegraphic.]

WASHINGTON, *June 26, 1891.*

The State Department have informed me, in reply to the inquiry which I have made, in conformity with the instructions con-
42 tained in your Lordship's telegram of to-day's date, that the formal permission to Her Majesty's Commissioners to land on the Pribyloff Islands will be sent to me to-day.

I propose to send this permission to Consul-General Booker, and to instruct him to deliver it to Sir George Baden-Powell immediately on the arrival of the latter in New York.

No. 70.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 26.)

[Telegraphic.]

WASHINGTON, *June 26, 1891.*

With reference to my telegram of to-day, I have just received the formal permission for the Commissioners to visit the seal islands. It consists of a letter from the Acting Secretary of the Treasury to Mr. Williams, the Special Agent in charge of the seal fisheries, instructing him to afford Sir G. Powell and Professor Dawson the facilities desired to enable them to accomplish the object of their mission as defined in Article 4 of the *modus vivendi* of the 15th instant.

No. 71.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *June 26, 1891.*

SIR: I have received your despatch of the 12th instant, inclosing copies of correspondence with the State Department relative to the Agreement for a *modus vivendi* in Behring's Sea.

Your notes to the Acting Secretary of State on this subject are approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 72.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *June 26, 1891.*

SIR: With reference to your telegram of the 21st instant, and to my reply of the 22nd instant, I transmit herewith, for your information, and for communication to the Government of the United States, a copy

of the telegraphic instructions sent to the Senior British Naval Officer on the North Pacific Station with regard to the steps to be taken to prohibit the killing of seals in certain specified portions of Behring's Sea.*

I am, &c.

(Signed) SALISBURY.

No. 73.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 27.)

[Telegraphic.]

WASHINGTON, *June 27, 1891.*

With reference to my telegram of the 25th instant, relative to the Behring's Sea arbitration, I venture to submit, for your Lordship's consideration, the following clause dealing with the question of compensation, instead of that proposed by the Acting Secretary of State in his note of the 25th:

Article 7. Either Government may submit to the Arbitrators any claim for compensation which it may desire to prefer against the other Government, in respect of any losses or injuries, in relation to the fur-seal fishery in Behring's Sea, for which such other Government may be legally liable.

The Arbitrators shall decide on the legality of every such claim, and if it shall be established, they may award such compensation as in their judgment shall seem equitable.

If the above meets with your Lordship's approval, may I sound the United States Government as to whether they are prepared to accept it?

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43 No. 74.

The Marquis of Salisbury to Sir G. Baden-Powell and Dr. Dawson.

FOREIGN OFFICE, *June 27, 1891.*

GENTLEMEN: I have to inform you that a telegram has been received this morning from Her Majesty's Minister at Washington stating that he has received the formal permission of the Government of the United States for your visiting the seal islands in Behring's Sea, under Article 4 of the *modus vivendi* Agreement signed at Washington on the 15th instant.

It consists of a letter to the Government Agent in charge of the islands, directing him to afford you every facility in the accomplishment of your mission.

Sir Julian Pauncefote proposes to forward this letter to the care of Her Majesty's Consul-General at New York, for delivery to the British Commissioner, who is expected to arrive there per steam-ship "Etruria" about the 4th July.

I am, &c.

(Signed) SALISBURY.

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* Inclosure in No. 44.

No. 75.

Sir R. Morier to the Marquis of Salisbury.—(Received June 29.)

ST. PETERSBURGH, *June 19, 1891.*

MY LORD: M. De Giers having, when I was at his country place Sunday week, promised to let me have an answer on the subject of the Behring's Sea seal fisheries in the course of last week, and Saturday having come without my receiving a reply, I wrote an urgent letter to his Excellency Saturday night, reminding him of his promise.

On Monday I learnt his Excellency was coming up to town, and on Wednesday I called at the Foreign Office to inquire whether any decision had been come to. I pointed out to his Excellency that your Lordship's last proposal communicated to him in my note of the 29th May (10th June) seemed to me to have much simplified matters, and that I regretted that there seemed so little prospect of a decision being come to by the Imperial Government. His Excellency said that he regretted more than he could say that he had not as yet succeeded in obtaining an answer from the Minister of Domains; he had in a large measure come up from Finland to see what could be done by personal discussion with M. Ostrovsky and the Representative of the Ministry of Marine—that Department having started difficulties as to the ships that would be required to enforce the arrangement, and he had arranged a meeting for this purpose that evening.

I did not see M. de Giers prior to his return to Finland, but M. Shishkine, whom I saw to-day, told me that the question had been referred to a Committee, consisting of himself as Representative of the Ministry for Foreign Affairs, M. Wyshniakoff, the Under-Secretary of the Ministry of Domains, as the Representative of that Department, and Admiral Titacheff as the Representative of the Ministry of Marine.

He promised to let me know as soon as the result was come to, but as yet I have heard nothing from him. He was himself, no less than M. de Giers, most strongly in favour of Russia's joining in the proposed action not only for the sake of a year's close season, but because, if the Russian Government did not join with us and herself enforce a close season, the sealing boats driven out from the waters to the east of the line of 1867 would all swarm westwards and make war on Russian seals. The present difficulty seemed to be that the Ministry of Marine refused to provide the coals necessary for the naval operations; light cruizers would not suffice; one large man-of-war at least would be required to accompany the cruizers, and act as a central point from which to direct the operations of the latter, but this would require her to be continuously under steam for several months, and this was an expense which at present they were not prepared to meet, but he had every hope that the matter would nevertheless be settled in a satisfactory manner.

I have, &c.

(Signed) R. B. D. MORIER.

P. S. JUNE 24.—I have not yet heard from M. Shishkine, and having called at the Ministry to-day, which is the ordinary day of reception, I did not find his Excellency in.

R. B. D. M.

44 No. 76.

*Sir J. Pauncefote to the Marquis of Salisbury.**—(*Received July 2.*)

WASHINGTON, *June 21, 1891.*

MY LORD: With reference to my telegram of this day's date, giving a summary of the instructions issued by the United States Navy Department in pursuance of the Agreement between Her Majesty's Government and the United States Government for a *modus vivendi* in Behring's Sea, I have now the honour to transmit to your Lordship a copy of the note which I received from the Acting Secretary of State, communicating the above-mentioned instructions.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 76.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, June 20, 1891.*

SIR: I have the honour to transmit to you herewith copies of the instructions that have been issued by the Secretary of the Navy in pursuance of the Proclamation of the President, of the 15th June, 1891, relative to the *modus vivendi* respecting the fur-seal fisheries in Behring's Sea.

This Government would be pleased to receive, in exchange, copies of such instructions as may be issued by Her Britannic Majesty's Government on the same subject.

I have, &c.

(Signed) W. F. WHARTON.

[Inclosure 2 in No. 76.]

Mr. Tracy to Mr. Wharton.

NAVY DEPARTMENT, *Washington, June 19, 1891.*

SIR: I have the honour to transmit herewith a copy of the instructions which have been issued by the Navy Department in pursuance of the Proclamation of the President of the 15th June, 1891, containing the *modus vivendi*, with a view to their exchange, should it be deemed desirable, for a copy of such instructions as may be issued by the British Government on the same subject.

Very respectfully,

(Signed) B. F. TRACY, *Secretary of the Navy.*

[Inclosure 3 in No. 76.—Telegraphic.]

Mr. Tracy to Commanding Officer of United States Steamer "Thetis," San Francisco, California.

WASHINGTON, *June 15, 1891.*

Proclamation of President closing Behring's Sea has been telegraphed to Collector of Port of San Francisco. Make immediate application for copies as soon as received; proceed with "Thetis" to Sand Point, Popoff Island, distribute the Proclamation among the sealing vessels. Warn master of each vessel to whom you may deliver Proclamation that name of vessel has been taken, and that vessel will be liable to capture if found to have been or to be sealing in Behring's Sea east of the line of demarcation; after notice, furnish all United States and British vessels of war and revenue-cutters with lists of vessels warned. Remain in neighbourhood of

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*Substance telegraphed.

Sand Point until receipt of further instructions, which will be sent by "Marion." Receive on board and transport to Sand Point C. H. Bullard, Deputy Collector of Customs, but do not delay sailing on his account.

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45 [Inclosure 4 in No. 76.—Telegraphic.]

Mr. Tracy to Commanding Officer of United States Steamer "Mohican," San Francisco, California.

WASHINGTON, *June 15, 1891.*

Obtain immediately from Collector of Customs, San Francisco, printed copies of President's Proclamation in reference to Behring's Sea. On receipt of such copies proceed with all dispatch to the vicinity of the Pribyloff Islands, St. Paul and St. George. Notify all American and British persons and vessels you meet of the Proclamation, and give them copies of the same. Warn all persons and vessels of either nationality engaged in sealing in Behring's Sea east of the line of demarcation, as shown on Hydrographic Office Chart No. 68, to leave those waters forthwith. Make entry of warning on register or log of sealer. Seize any American or British persons and vessels found to be or to have been engaged in sealing, after notice, within the prohibited waters, and bring or send them in charge of a sufficient force to insure delivery to nearest convenient port of their own country, together with witnesses and proofs, and there deliver them to proper officer of Court in said port. Send, at least, the master of the seized vessel, her mate or boatswain, all her cargo, and such of her crew as you deem safe, in the seized vessel. At time of seizure, draw up declaration in writing, showing condition of seized vessel, place and date of seizure, giving latitude and longitude, and circumstances showing guilt. Sign declaration, and send with ship's papers and seized vessel to officer of Court. Deliver to master of seized vessel signed and certified list of papers found on board. Officer in charge of seized vessel will, at time of delivering vessel's papers to Court, sign a certificate stating any changes that may have taken place in respect to vessel, crew, or cargo, since seizure.

Keep a list of all vessels to which notice of Proclamation has been given, and furnish all United States and British war or revenue vessels with copies of list.

Before sailing get order from Alaska Commercial Company, San Francisco, to coal at Unalaska.

After two weeks' cruizing in neighbourhood of Pribyloff Islands, rendezvous at Sand Point, Popoff Islands, one of the Shumagin group, with "Thetis" and "Alert," and await there further instructions by "Marion."

Furnish copy of this order to Commanding Officer of "Alert," and direct him to comply with it.

[Inclosure 5 in No. 76.—Telegraphic.]

Mr. Tracy to Commander Cotton, commanding United States Steamer "Mohican," San Francisco, California.

WASHINGTON, *June 16, 1891.*

Until further instructed, you are placed in command of all United States vessels of war cruizing in the neighbourhood of Behring's Sea, and you will distribute the force in such manner as in your judgment will best enable you to comply with the orders of the Department, and the requirements of the President's Proclamation. Instruct vessels under your command to send all seized persons and vessels to Ounalaska, to which point chartered steamer will be sent from San Francisco with marine guard. Steamer will be at your disposal. Instructions have been sent to revenue-cutters to turn over persons and vessels seized by them to you at Ounalaska. Utilize the chartered steamer to the best advantage to assist in executing the Proclamation, and to hand over as soon as practicable all seized persons and vessels to authorities of nation to which they respectively belong. Orders directing "Thetis," "Alert," and "Mohican" to rendezvous at Sand Point revoked. "Thetis" will proceed to Sand Point as directed to distribute Proclamation and give notice, and will proceed thence to Ounalaska immediately after departure of British steamer, which visits Sand Point about 1st July to bring home coast catch of seal. "Mohican" and "Alert," after cruizing two weeks, as previously directed, in Behring's Sea, will rendezvous with "Thetis" at Ounalaska instead of Sand Point. "Marion" will sail later, and join your command at Ounalaska at about same time. Has "Thetis" already sailed? If so, you must communicate with her at Sand Point, where her orders of yesterday directed her to await your arrival. On receipt of this order, proceed immediately to Behring's Sea with "Thetis," "Mohican," and "Alert." Telegraph departure.

46 No. 77.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 2.)

WASHINGTON, *June 22, 1891.*

MY LORD: I have the honour to inclose, with reference to previous correspondence on the subject of the *modus vivendi* in Behring's Sea, copy of a protest, as published in the "Washington Post" of the 20th instant, which has been filed by the North American Commercial Company with the Treasury Department against the President's Proclamation limiting the catch of the Company for the current year to 7,500 seals, and for which indemnity is claimed. This protest also contains a claim by the Company for an indemnity against the United States on account of losses incurred during last year's fishery season by reason of their operations on the islands having been brought to a close on the 20th July before the expiration of the sealing season, by order of Mr. Goff, the United States Agent.

I likewise have the honour to inclose a cutting from the "New York Times," commenting on this protest of the Company.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 77.]

Extract from the "Washington Post" of June 20, 1891.

The North American Commercial Company, through its attorney, Judge N. L. Jeffries, filed the following protest with Acting Secretary Spaulding, of the Treasury Department, yesterday:

"SIR: The North American Commercial Company, of San Francisco, California, the lessee of the right to take fur-seals for their skins on the Islands of St. Paul and St. George in Alaska, for a period of twenty years from the 1st May, 1880, respectfully represents:

"1. That it has at all times since the execution of said lease, in every particular, faithfully performed the stipulations and convenants of the same, and has strictly observed the law in regard thereto, and obeyed the regulations, orders, and directions of the Secretary of the Treasury relating to the same; that it is doing so now, and will continue to do so in the future.

"Said Company further represents that previous to and at the time of the letting of said Contract the Secretary of the Treasury, by public advertisement, assured said Company that it would be permitted to take under said Contract on said islands a quota of 60,000 seal-skins during the year 1890, and said Company, relying upon that assurance, submitted its bid for said privilege and made its estimates upon that basis, and agreed to pay to the United States a sum three times greater than paid by the former lessee for said privilege, which proposal was accepted by the United States, and a lease was thereupon executed and delivered in accordance with said proposal submitted by said Company in response to said advertisement.

"That thereupon said Company, under directions of the Secretary of the Treasury, purchased from the former lessee, the Alaska Commercial Company, its plant, property, and fixtures on said islands, including a large number of dwelling-houses for the native inhabitants, also warehouses, storehouses, salt houses, merchandize, goods, provisions, boats, and implements, and paid therefor a large sum of money. Said Company at the same time purchased a large stock of supplies, provisions, goods, and merchandize for the wants of the inhabitants of the islands, and chartered a steam-ship at great cost for the purpose of transporting said supplies from San Francisco to the seal islands, a distance of over 2,000 miles, and to bring back to San Francisco the 60,000 seal-skins, which, by its said Contract, it had been authorized to take during the season of 1890, and for which it incurred a great expense.

"Said Company further represents that, in violation of the terms and stipulations of said Contract without good cause therefor, and without any assertion or pretence by the United States or its Agents that said Company had been derelict or at fault in any respect, the United States compelled said Company to cease taking seals on

the 20th day of July, 1890, when the sealing season had not expired, and when
47 said Company had obtained only one-third of the quota of seal-skins which by law and the terms of said Contract it was authorized to take, and then and there prohibited said Company from taking any additional number during said year, on account of which said Company sustained a loss in the sum of 400,000 dollars.

"Said Company further represents that at the time it was compelled to stop taking seals at said islands it earnestly protested against such action by the United States, and has continued to protest, and now again submits its formal protest against the action of the United States in preventing it from taking its quota of seal-skins it had a right to take by law and by the terms of said Contract. And said Company respectfully submits that it is justly entitled to receive from the United States such a sum as will compensate it for the loss it has sustained on account of the action of the United States, as aforesaid.

"2. Said Company further represents that, acting under the authority of law and the provisions of said lease, the Secretary of the Treasury, on the 13th day of April, 1891, determined and fixed the quota of seal-skins which said Company would be permitted to take on said islands, according to the provisions of said Contract, during the present year, at 60,000 skins; and that, relying upon that assurance, said Company again purchased a large stock of supplies to the amount of 65,000 dollars, and chartered a steamer at great expense to transport said supplies to the seal islands for the maintenance of the native inhabitants, and to bring to San Francisco the 60,000 seal-skins which it had been authorized to take during the present season.

"And now, said Company having been notified by the Secretary of the Treasury that it will not be permitted to take its said quota of 60,000 seals during this year as it is authorized to do by its said Contract, and by the express direction of the Secretary aforesaid, and it respectfully enters its protest against such action by the United States, and gives notice to the Honourable the Secretary of the Treasury that it will claim to be reimbursed by the United States to the full amount of the loss it may sustain by reason of its being prohibited by the United States from taking its full quota of 60,000 seal-skins during the year 1891.

"3. Said Company further represents that in providing for the maintenance and education of the inhabitants of the Islands of St. Paul and St. George aforesaid, it has expended a large amount of money, to wit, the sum of 150,000 dollars, for which it has not been reimbursed in any part, and said Company has been assured by the Secretary of the Treasury that the United States will liquidate the account so expended by said Company, including as well the price of supplies and cost of schools, medicines, and medical attendance during the years 1890 and 1891. Said Company will be obliged to hereafter demand of the United States the full amount so expended.

"Said Company respectfully invites the attention of the Secretary of the Treasury to the fact that the Islands of St. Paul and St. George in Alaska belong to and are in the undisputed possession of the United States; that the right of this Government to dispose of fur-seals born on said islands has never been questioned. This being so, said Company assumes that the right of the United States or its lessee to take fur-seals on said islands within our unquestioned jurisdiction is beyond dispute, and not subject to question or interference by England or any other foreign State.

"The right of this Government to take fur-seals on its own territory is not one of the questions to be submitted to arbitration, and has no relation to the contention between the two countries. In that dispute Great Britain affirms and the United States denies the right of English and Canadian poachers to slaughter fur-seals in 'our part' of Behring's Sea, and this Company respectfully insists that the Agreement between the two Governments set forth in the President's Proclamation, in so far as it prohibits said Company from taking its lawful quota of seal-skins, is in contravention of the vested rights of this Company, and subjects it to great loss.

"If it may be assumed, as England has asserted, and this Government has denied, that the eastern portion of Behring's Sea is not the marine territory of the United States, but is the 'high seas,' the Company respectfully submits that it is not competent for Great Britain and the United States alone or for any other two Governments to determine who shall be permitted to navigate these waters, or to prohibit fishing or taking seals on the high seas; and the Company respectfully points out to the Honourable the Secretary of the Treasury that its rights have been overlooked by said Agreement between the two Governments, in that it deprives the lessee from taking seals which it is authorized to take by law and its Contract with the United States, thereby inflicting a severe loss upon said Company, in order to obtain the consent of England to arbitrate the question as to the right of Canadian poachers to destroy the seal industry by pelagic sealing."

48 [Inclosure 2 in No. 77.]

Extract from the "New York Times" of June 20, 1891.

THE COMMERCIAL COMPANY PROTESTS.—The North American Commercial Company has entered its protest against the assent of the United States Government to the closed season for sealing in Behring's Sea, and has given notice that it claims to be indemnified by the Government for its losses not only for this year, but last year, in having the number of seals that it was permitted to take under its Contract cut down. It is evident that the Company which took the lease of the sealing privileges of the Islands of St. George and St. Paul for a term of twenty years from the 1st May, 1890, has a rather hard bargain. It is bound to incur a considerable expense in maintaining the natives, without reference to the number of skins taken; and it invested quite a large amount in the "plant" and property purchased from its predecessor. The preparation of each season's work is, of course, an expensive matter.

The terms of the lease give the Secretary of the Treasury discretion in determining the number of seals that may be taken each season. Last year the number was fixed at 60,000, but, on the 20th July, the operations of the Company were stopped by the Agents of the Government, when only a little more than one-third of the allotted number had been taken. This year the Secretary of the Treasury again, on the 13th April, issued an order permitting the capture of 60,000 seals, and preparations were made by the Company accordingly. But under the closed-season Agreement the number has been cut down to 7,500, sufficient merely to cover the cost of maintaining the natives. Now the Company claims that the Government had no right to reduce the number after it had been once fixed for the year under the contract of lease, and it will claim to be indemnified for its losses. It says that the loss last year was 400,000 dollars, and, of course, it will be much larger this year. Besides this, the Company asserts that it has expended 150,000 dollars in the maintenance and education of the natives, which should be reimbursed. It seems likely, therefore, to have a nice little claim upon the Government for 1,000,000 dollars or more.

The Company, through its counsel, has some remarks to make about the international and jurisdictional aspects of the case, which are sheer impertinence. As to its legal claims, not being familiar with the exact terms of the Contract, we shall not undertake to pass an opinion. Apparently, the Secretary of the Treasury assumes that his discretion to fix the number of seals to be taken from year to year, and to supervise and regulate the killing, includes the right to reduce the number at any time during the season, while the Company denies this. But one thing is very clear. If it was found necessary last year to stop the Company's operations in July, when only 21,000 seals had been taken, it was very poor policy this year to fix the limit again, before the season opened, at 60,000, and that, too, after the proposal for a closed season had been made and negotiations were on foot for giving it effect. Does it not look as though the Government itself had prepared the way for this claim for a large indemnity in case an Agreement for a closed season should be made? Is not this protest another step in the process of laying the basis for a claim upon the Government equivalent to the profits of a full sealing season of which the order permitting a catch of 60,000 seals was the first step? If so, it may be that Mr. Blaine, by his delays and his influence, succeeded in doing his friends of the North American Commercial Company a very substantial service after all.

No. 78.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 2.)

[Extract.]

WASHINGTON, *June 23, 1891.*

With reference to your Lordship's telegram of yesterday's date, containing the instructions issued to the British cruizers in Behring's Sea, I have the honour to inclose copy of a Memorandum which I this day personally delivered to the Acting Secretary of State.

49 [Inclosure in No. 78.]

Memorandum.

The following instructions have been issued to the British Senior Naval Officer at Esquimalt:

He is to proceed to Behring's Sea with Her Majesty's steam-ships "Nymphe" and "Pheasant," and cruize to the eastward of the line of demarcation mentioned in Articles 1 and 2 of the *modus vivendi*, warning all British vessels found acting in ignorance of the prohibition.

He is to confiscate the sealing equipment of any British vessel found deliberately offending, recording her name and the name of her master, for prosecution afterwards.

He is to arrest any American vessel found deliberately offending, and record her name and the name of her captain, together with the proof of the offence for which she is arrested, informing the United States cruizers.

Her Majesty's ship "Porpoise" will be ordered from China to join the other ships under his command.

Her Majesty's Government are of opinion that there should be an understanding between the two Governments for mutual indemnities.

A cruizer of one nation arresting a vessel of the other can only be justified in doing so as the agent of such other nation, and should therefore act in that character.

Her Majesty's Government therefore suggest that the two Governments should agree to indemnify each other in respect of any acts committed in pursuance of such agency by the cruizers of one nation against the vessels of the other in execution of the *modus vivendi*.

No. 79.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 4.)

[Telegraphic.]

WASHINGTON, *July 4, 1891.*

I have the honour to inform your Lordship that Mr. Wharton, the Acting Secretary of State, has addressed to me a note stating that the President is about to designate two persons to visit the Behring's Sea for the purpose of examining all questions connected with seal life in that sea and the adjacent waters. Mr. Wharton, therefore, proposes that arrangements should be made to have the Agents of the respective Governments go together, so that they may make their observations conjointly. He awaits such communications as Her Majesty's Government may desire to make on the subject.

Mr. Wharton informs me by word of mouth that the Agents whom the President is about to appoint will be nominated as members of the Joint Commission, and as he presumes that the same course will be followed by Her Majesty's Government with regard to Sir G. Baden-Powell and Mr. Dawson, the object of the proposal is that all the members of the Joint Commission should have the advantage of making the necessary investigations and inquiries in the course of the present seal fishery season.

I await instructions from your Lordship as to the reply I should address to the United States Government.

No. 80.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *July 5, 1891.*

I have received your telegram of yesterday, forwarding the proposal of the United States Government that the inquiries respecting seal life in Behring's Sea should be conducted conjointly by the British and United States Commissioners.

Her Majesty's Government have already chartered a ship to convey the British Commissioners, and they could not now cancel the engagement. Instructions will, however, be sent to the British Commissioners to co-operate as much as possible on their arrival at the seal islands with the American Commissioners in their inquiries into the matters to be investigated.

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No. 81.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 6.)

WASHINGTON, *June 26, 1891.*

MY LORD: In my telegram of the 15th instant I had the honour to report the signature of the Agreement between Her Majesty's Government and that of the United States for a *modus vivendi* during the present fur-seal fishery season in Behring's Sea, and I added that I was awaiting an appointment to proceed with the discussion of the terms of arbitration.

Immediately after the signature of the *modus vivendi*, I had requested the Acting Secretary of State (the Honourable William Wharton) to appoint an early day for resuming the above negotiations, and he promised to use all expedition for that purpose.

The next day (the 16th) Mr. Wharton invited me to call at the State Department, and to my surprise informed me that the President was compelled to devote the next few days to other urgent matters of State, and had made arrangements to leave Washington immediately afterwards for his sea-side residence at Cape May, but that he would return on the 23rd, and would be prepared to proceed with the remaining subjects of negotiation.

I expressed my concern at this unexpected delay, which I feared might prevent the appointment of the Commission in time to commence its labours during the present fishery season. I reminded Mr. Wharton of his assurances that the President was anxious to expedite the conclusion of the Arbitration Convention in order that the Joint Commission should not lose this season, and I strongly urged that he should obtain authority to proceed with the negotiations during the absence of the President, whereby a whole week might be saved at a time when every day gained would be of importance.

Mr. Wharton promised to report my observations to the President, and I called again at the Department of State on the 18th in the hope of obtaining a favourable reply to my proposal, but I was informed that my representations had been of no avail, and that the President would not consent to the negotiations being resumed until his return from Cape May.

The President returned to Washington on the 23rd, and on the following day I called on Mr. Wharton to urge the immediate resumption of the negotiations. He promised to see the President at once on the subject, and yesterday evening I received from him the official note of which I at once telegraphed the substance to your Lordship, and of which a copy is inclosed in my separate despatch No. 141 of this date.

In that note Mr. Wharton submits, on behalf of the President, the text of two new clauses in the proposed Arbitration Convention with reference to the questions of an international close season, and of the claims for compensation, and also proposes a form of a separate and contemporaneous agreement for a Joint Commission.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 82.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 6.)

WASHINGTON, *June 26, 1891.*

MY LORD: With reference to my telegram of yesterday's date, I have the honour to inclose herewith a copy of a note which I received yesterday evening from the Acting Secretary of State, in answer to the Memorandum (see my despatch of the 5th June) which I communicated to him on the 3rd instant in conformity with the instructions contained in your Lordship's telegram of the 2nd instant, on the subject of the Behring's Sea Arbitration.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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81 [Inclosure in No. 82.]

Mr. Wharton to Sir J. Pauncefote.

WASHINGTON, *June 25, 1891.*

SIR: The correspondence between this Government and that of Her Majesty has happily resulted in an Agreement upon the first five propositions which are to constitute the basis of a proposed Arbitration relating to the controversy which has arisen as to the respective rights of the two Governments in Behring's Sea.

In the note of Lord Salisbury of the 21st February last he states his objection to the sixth proposition, as presented in the letter of Mr. Blaine of the 17th December, 1890, in the following words:

"The sixth question, which deals with the issues that will arise in case the controversy should be decided in favour of Great Britain, would perhaps more fitly form the substance of a separate reference. Her Majesty's Government have no objection to referring the general question of a closed time to arbitration, or to ascertain by that means how far the enactment of such a provision is necessary for the preservation of the seal species, but such reference ought not to contain words appearing to attribute special and abnormal right in the matter to the United States."

I am now directed by the President to submit the following, which he thinks avoids the objection urged by Lord Salisbury:

"No. 6. If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determi-

No. 80.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *July 5, 1891.*

I have received your telegram of yesterday, forwarding the proposal of the United States Government that the inquiries respecting seal life in Behring's Sea should be conducted conjointly by the British and United States Commissioners.

Her Majesty's Government have already chartered a ship to convey the British Commissioners, and they could not now cancel the engagement. Instructions will, however, be sent to the British Commissioners to co-operate as much as possible on their arrival at the seal islands with the American Commissioners in their inquiries into the matters to be investigated.

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Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 6.)

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MY LORD: In my telegram of the 15th instant I had the honour to report the signature of the Agreement between Her Majesty's Government and that of the United States for a *modus vivendi* during the present fur-seal fishery season in Behring's Sea, and I added that I was awaiting an appointment to proceed with the discussion of the terms of arbitration.

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MY LORD: With reference to my telegram of yesterday's date, I have the honour to inclose herewith a copy of a note which I received yesterday evening from the Acting Secretary of State, in answer to the Memorandum (see my despatch of the 5th June) which I communicated to him on the 3rd instant in conformity with the instructions contained in your Lordship's telegram of the 2nd instant, on the subject of the Behring's Sea Arbitration.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 82.]

Mr. Wharton to Sir J. Pauncefote.

WASHINGTON, *June 25, 1891.*

SIR: The correspondence between this Government and that of Her Majesty has happily resulted in an Agreement upon the first five propositions which are to constitute the basis of a proposed Arbitration relating to the controversy which has arisen as to the respective rights of the two Governments in Behring's Sea.

In the note of Lord Salisbury of the 21st February last he states his objection to the sixth proposition, as presented in the letter of Mr. Blaine of the 17th December, 1890, in the following words:

"The sixth question, which deals with the issues that will arise in case the controversy should be decided in favour of Great Britain, would perhaps more fitly form the substance of a separate reference. Her Majesty's Government have no objection to referring the general question of a closed time to arbitration, or to ascertain by that means how far the enactment of such a provision is necessary for the preservation of the seal species, but such reference ought not to contain words appearing to attribute special and abnormal right in the matter to the United States."

I am now directed by the President to submit the following, which he thinks avoids the objection urged by Lord Salisbury:

"No. 6. If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determi-

nation the Report of a Joint Commission to be appointed by the respective Governments shall be laid before them, with such other evidence as either Government may submit.

"The Contracting Powers furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations."

In your note of the 3rd instant you proposed, on behalf of Her Majesty's Government, the following Additional Article:

"It shall be competent to the Arbitrators to award such compensation as, in their judgment shall seem equitable, to the subjects and citizens of either Power who shall be shown to have been damnified in pursuit of the industry of sealing by the action of the other Power."

The President cannot give his assent to this form of submitting the question of compensation. It entirely omits notice of the important fact, that the Government of the United States, as the owner of the seal fisheries on the Pribyloff Islands, has interests which have been injuriously affected by the pelagic sealing of which complaint has been made in this correspondence.

This Government has derived a very large annual income from this property, and this income has, in the opinion of the President, been very seriously impaired and imperilled by the destruction of the seal in the sea while passing to and from the breeding grounds on these islands. The Government of Her Majesty has directly interposed to support the Canadian sealers, and will not, the President assumes, desire to avoid responsibility for any damages which have resulted to the United States or to its citizens if it shall be found by the Arbitrators that the pursuit of seals by these Canadian vessels in the sea was an infraction of the rights and an injury to the property of this Government. The proposal submitted by you distinctly limits the liability of Her Majesty's Government in case of a decision in favour of the United States to compensation to the citizens of this country.

It will be apparent to Lord Salisbury that whatever damages have resulted from pelagic sealing as pursued by vessels flying the British flag have accrued to the United States or to its lessees. The President does not doubt that the purpose of Her Majesty's Government in the proposal under discussion was to secure to the party injured equitable compensation for injuries resulting from what may be found by the Arbitrators to have been the unlawful and injurious act of either Government.

From the note of Lord Salisbury of the 21st February, to which reference has been made, I quote the following:

"There is one omission in these questions which I have no doubt the Government of the President will be very glad to repair, and that is the reference to the
52 Arbitrator of the question what damages are due to the persons who have been injured in case it shall be determined by him that the action of the United States in seizing British vessels has been without warrant in international law."

I am directed by the President to propose the following 7th and final clause in the basis of arbitration:

"7. It shall be competent to the Arbitrators to award such compensation as in their judgment shall seem equitable to the subjects or citizens of Great Britain whose vessels may have been seized by the United States in the Behring's Sea, if such seizures shall be found by the Arbitrators to have been unwarranted, and it shall also be competent to the Arbitrators to award to the United States such compensation as in their judgment shall seem equitable for any injuries resulting to the United States or to the lessees from the Government of the privilege of taking seals on the Pribyloff Islands, by reason of killing seals in the Behring's Sea by persons acting under the protection of the British flag outside of the ordinary territorial limits and since the 1st day of January, 1886, if such killing shall be found to have been an infraction of the rights of the United States."

It being understood that an arrangement for a Joint Commission is to be made contemporaneously with the conclusion of the terms of arbitration, I am directed by the President to propose the following separate agreement:

"Each Government shall appoint two Commissioners to investigate conjointly with the Commissioners of the other Government all the facts having relation to seal life in Behring's Sea, and the measures necessary for its proper protection and preservation.

"The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

"The Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise."

I have, &c.

(Signed) WILLIAM F. WHARTON.

No. 83.

Sir G. Baden-Powell to the Marquis of Salisbury.—(*Received July 6.*)

[Telegraphic.]

JULY 6, 1891.

In my opinion it is essential that in order to avoid delay I should take with me to the North Pacific Ocean a permission from the Russian Government to visit their islands should it seem necessary to do so.

I should be glad if it could be sent to me, if possible, by post on the 7th instant.

No. 84.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *July 6, 1891.*

Her Majesty's Government approve the wording of the 7th Article respecting compensation in the proposed Arbitration Agreement suggested in your telegram of the 27th ultimo. They have been awaiting the assent of the Canadian Government, which has now been given.

Her Majesty's Government accept the 6th Article as proposed by the United States Government, and communicated in your telegram of the 25th ultimo.

No. 85.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received July 6.*)

[Telegraphic.]

WASHINGTON, *July 6, 1891.*

With reference to telegram from the Foreign Office of the 6th instant, are the terms of agreement as to the Joint Commission referred to in my telegram of the 25th ultimo accepted by Her Majesty's Government?

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53 No. 86.

The Marquis of Salisbury to Sir G. Baden-Powell and Dr. Dawson.

FOREIGN OFFICE, *July 7, 1891.*

GENTLEMEN: I transmit herewith, for your information, paraphrases of telegrams which have passed between Her Majesty's Minister at Washington and this Department,* relative to a proposal made by the Government of the United States that the Commissioners appointed by Her Majesty's Government and by that of the United States to visit Behring's Sea for the purpose of examining into the conditions of seal life should do so together, so as to make their observations conjointly.

* Nos. 79 and 80.

You will already have been informed of the contents of these telegrams by the Governor-General of Canada, to whom they have been repeated by telegraph. In accordance with the assurance given to the United States Government, I have to request that on your arrival at the seal islands you will as much as possible co-operate with the Commissioners appointed by the Government of the United States to inquire into this subject.

I am, &c.

(Signed) SALISBURY.

No. 87.

Colonial Office to Foreign Office.—(Received July 8.)

DOWNING STREET, *July 7, 1891.*

SIR: I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, the inclosed "Supplement No. 1 to the Annual Report of the Department of Fisheries," which has been received from the Governor-General of Canada.

I am to request that you will call his Lordship's attention to the passages relating to the seal fisheries contained at pp. 182–4 of this volume.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure in No. 87.]

Extract from Supplement No. 1 to the Annual Report of the Department of Fisheries.

FISHERIES STATEMENTS AND INSPECTORS' REPORTS FOR THE YEAR 1890.

[Printed by order of the Canadian Parliament.]

Marine Furs.

The value of the marine fur products is 510,111 dollars, being an increase of 157,661 dollars over the past year, due to the following causes:—An advance of 1 dollar per skin in the price of fur seals, an increase of 11,181 skins in the catch, and an increase of 3,200 in the catch of hair-seals.

I append a schedule, showing the detailed catch of the sealing fleet for the season of 1890:

Return showing the Number of Vessels, Boats, Canoes, and Men engaged in the Marine Fur Fishery, with Products and Values, for the season of 1890.

Name of Vessel.	Name of Owner.	Tonnage.	Value of Vessel.	Number of Boats.	Value of Boats.	Number of Canoes.	Value of Canoes.	Number of Men.	Number of Spring Catch.	Number of Sand Point Catch.	Number of Behring Sea Catch.	Total Number.	Total Value.
C. H. Tupper	Walker and Co	99	$13,000	7	$700	.....	.....	23	.....	571	796	1,367	$15,037
Viva	Carne and Munsie	92	12,000	6	600	.....	.....	23	262	436	2,015	2,713	29,843
Lily	W. Boons	69	8,500	1	100	8	$400	25	122	.....	500	622	6,842
Ariel	S. W. Buknam	90	9,000	1	100	11	500	28	220	349	1,137	1,706	18,766
Sea Lion	S. Collins	50	7,000	5	500	.....	.....	18	254	817	774	1,845	20,295
Mary Taylor	Carne and Munsie	42	8,000	1	100	10	500	23	104	302	592	998	10,978
Annie C. Moore	Hackett and Co	113	15,600	7	700	.....	.....	22	90	703	630	1,423	15,658
Walter L. Rich	Cameron and Munro	79	7,000	6	600	.....	.....	20	122	562	633	1,317	14,487
E. B. Marvin	Marvin and Co	117	12,000	7	700	.....	.....	26	368	878	918	2,164	23,804
Kate	Charles Spring	58	4,000	5	500	11	500	27	156	511	230	897	9,867
Pioneer	Carne and Munsie	66	10,000	5	500	.....	.....	20	235	716	984	1,935	21,285
Favorite	Charles Spring	64	8,000	.....	.....	13	500	32	356	981	1,116	2,453	26,983
Ocean Bell	R. Hall and Co	83	10,000	7	700	.....	.....	23	.....	946	480	1,426	15,686
Theresa	Babington and Co	63	10,000	7	700	.....	.....	23	175	569	450	1,194	13,134
Sapphire	Marvin and Co	124	14,000	1	100	18	900	42	119	1,378	745	2,242	24,662
Triumph	Ditto	98	14,000	7	700	.....	.....	23	182	1,018	473	1,673	18,403
Maggie Mac	Dodd and Co	70	10,000	6	725	.....	.....	20	.....	1,200	752	1,952	21,472
Juanita	J. Kinsman	49	6,000	1	100	9	450	22	97	811	770	1,178	12,958
W. P. Sayward	Lang and Moss	59	8,000	1	100	8	400	22	154	339	459	952	10,472
Catherine	J. L. Penny	81	5,500	1	100	10	500	23	380	845	945	1,670	18,370
Beatrice	W. Grant	66	7,000	.....	.....	12	600	29	220	710	854	1,780	19,624
Mary Ellen	M. Moss	73	7,250	7	700	.....	.....	23	115	951	.....	1,066	11,726
Penelope	Ditto	69	10,000	5	500	.....	.....	22	148	578	445	1,171	12,881
Minnie	V. Jacobosen	46	8,000	1	100	8	400	21	300	764	1,467	2,531	27,841
Aurora	T. Harold	41	8,000	1	100	10	500	24	165	797	.....	962	10,582
Wanderer	H. Paxton and Co	32	5,000	1	100	8	400	19	82	.....	.....	82	902
Venture	D. Urquhardt	48	5,000	4	400	.....	.....	15	94	.....	.....	94	1,034
Mountain Chief	Nawassune	23	1,000	.....	.....	5	200	12	60	.....	.....	60	660
Letitia	P. Quachynne	28	1,000	.....	.....	4	160	10	70	.....	.....	70	770
From River Inlet to Skeena River	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	200	2,244
Estimate of fur-seals purchased from Indians and others	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5,000	55,000
Estimate of hair seals	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10,200	7,650
" sea-otter	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	102	10,200
Total		2,042	248,250	107	10,825	145	6,910	678	4,650	16,732	18,165	54,853	510,111

55 *Return showing Fur-Seals caught by Foreign Vessels and disposed of in Victoria, British Columbia.*

Name of Vessel.	Name of Owner.	Number of Sand Point Catch.	Number of Behring Sea Catch.	Total Number.
Mattie T. Dyre	American	74	.....	74
San Diego	Ditto	.....	579	579
Geo. R. White	Ditto	.....	400	400
Harry Davis	Ditto	.....	1,500	1,500
Venture	Ditto	.....	564	564
Adele	German	220	431	651
Total		294	3,474	3,768

It will be noticed that the names of vessels and owners are given, together with the tonnage, as in previous reports, while the number of boats and canoes is kept separate and the total values given. The value of vessels comprises the fit-out with firearms, ammunition, &c., when prepared for a hunting voyage.

The catch of seals has been divided into three classes, viz.:—Spring catch, Sand Point catch, and Behring's Sea catch. The Spring catch comprises the seals captured after the vessels have left Victoria, say the 1st February, hunting as far south as Lower California; Sand Point catch includes the skins taken off the west coast of Vancouver Island; and the Behring's Sea catch those killed in Behring's Sea proper. It will be noticed that the two first-named kinds exceed the Behring's Sea catch by 3,217 skins, and, as is usually the case, I learn from dealers that the percentage of grey pups is larger in the Sand Point catch than in that of the Behring's Sea.

On comparing the schedule with that of 1889, it will be seen that the sealing fleet was increased by six vessels; and, from present outlook, there will likely be a much larger increase during the coming season. I understand that there have already been purchased three American, a Japanese, and five Nova Scotia schooners for this trade. The names of the Nova Scotia vessels now on their way are—"Union," "Geneva," "Maud S," "Otto," and "Annie M. Paint," besides a steamer recently fitted up for the same purpose.

I was informed that the seals in Behring's Sea changed their feeding-grounds last season from the south-west to the north-east of St. George and St. Paul's Islands, the large catches being made at the north-east end. The cause of this change is said to be on account of submarine volcanic eruptions, which drove away the feed from the banks. I understand that Customs Collector Milne, of Victoria, has given a detailed Report on this fishery, and there is no need of my dwelling further on it. As I am situated here, and so seldom able to visit Victoria, I find it extremely difficult to get reliable information.

No. 88.

The Marquis of Salisbury to Sir R. Morier.

[Telegraphic.]

FOREIGN OFFICE, *July 8, 1891.*

It is thought by the two Commissioners whom Her Majesty's Government are sending to investigate the conditions of seal life in the North Pacific Ocean and in Behring's Sea that, in order to complete their inquiry, it may be necessary for them to visit the seal islands belonging to Russia. One of the principal reasons for their doing so is that they will have to ascertain how far the alleged diminution in the number of seals is merely due to their emigration to other rookeries.

I have to request you to apply for the necessary permission to the Russian Government, and it is desirable, if possible, that before they leave Vancouver the Commissioners may be able to receive the permission by telegraph. Their names are Sir George Baden Powell and Professor Dawson. A steamer has been specially chartered for them in which they will visit the islands.

56

No. 89.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 9.)

WASHINGTON, *June 27, 1891.*

MY LORD: With reference to my despatch of the 23rd instant, I have the honour to report that I have received a communication from the State Department, dated yesterday, informing me that the Memorandum, copy of which was inclosed in my despatch above-mentioned, relative to the instructions given to Her Majesty's vessels in Behring's Sea, was immediately communicated to the United States Navy Department for their information.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 90.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *July 9, 1891.*

In reply to the inquiry contained in your telegram No. 97, of the 6th instant, I have to inform you that the terms of Agreement as to a Joint Commission, contained in your telegram of the 25th ultimo, are accepted by Her Majesty's Government.

No. 91.

The Marquis of Salisbury to Sir R. Morier.

FOREIGN OFFICE, *July 9, 1891.*

SIR: I transmit herewith, for your Excellency's information, copies of a despatch from Her Majesty's Minister at Washington,* inclosing the Agreement signed at Washington on the 15th ultimo between Her Majesty's Government and that of the United States for establishing a *modus vivendi* in relation to the fur-seal fisheries in Behring's Sea.

I am, &c.

(Signed) SALISBURY.

No. 92.

Colonial Office to Foreign Office.—(Received July 10.)

DOWNING STREET, *July 9, 1891.*

SIR: I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a paraphrase of a telegram from the Governor-General of Canada respecting the suggestion that the members of the Joint Commission should proceed to the islands together.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

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* No. 64.

[Inclosure in No. 92.—Telegraphic.]

Lord Stanley of Preston to Lord Knutsford.

(Received July 8, 1891, 4.20 P. M.)

The following message was sent to-day to Sir J. Pauncefote:

"The Prime Minister of Canada suggests that the United States Government should be informed that the British Commissioners are ready to start, and hope to leave Ottawa on the 10th instant.

"Will United States Commissioners accompany them?"

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67 No. 93.

Colonial Office to Foreign Office.—(Received July 10.)

DOWNING STREET, *July 9, 1891.*

SIR: With reference to the letter from this Department of the 9th instant, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a telegram which he has sent to the Governor-General of Canada respecting the suggestion that the British and United States members of the Joint Commission of Experts should proceed to Behring's Sea together.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure in No. 93.—Telegraphic.]

Lord Knutsford to Lord Stanley of Preston.

DOWNING STREET, *July 9, 1891.*

We have no objection to Commissioners of United States Government accompanying British Commissioners, who should proceed in vessel chartered for them without avoidable delay.

No. 94.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *July 10, 1891.*

The Secretary of State for the Colonies communicated to me the telegram sent to you by the Governor-General of Canada on the 8th instant, suggesting that the United States Commissioners should accompany the British Commissioners to Behring's Sea.

Her Majesty's Government have no objection to the proposal, but the British Commissioners must go in the ship which has been chartered for them, and should not postpone their departure.

No. 95.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 10.)

[Telegraphic.]

WASHINGTON, *July 10, 1891.*

With reference to your Lordship's telegram of the 6th instant on the subject of Behring's Sea arbitration, I have sounded the United States Government unofficially on the subject of the new clause No. 7 respecting damages, which I submitted to your Lordship in my telegram of the 27th ultimo.

Before arriving at any decision on this subject, the President wishes to be officially informed of the precise grounds on which Her Majesty's Government object to clause 7 as proposed by him. With your Lordship's approval, I propose to inform him that Her Majesty's Government are of opinion that in a case like the present, it is unusual and inexpedient to make use of terms providing that compensation shall be awarded on an hypothetical state of facts, and thus prejudging the question of liability; that, further, they consider that the question whether any legal liability arises out of any particular state of facts is a matter which should be adjudged upon by the Arbitrators after discussion before them. Her Majesty's Government would therefore propose that, in order to place both Governments in this respect on the same footing, a new clause in the form submitted in my telegram of the 27th June should be substituted for clause 7 as proposed by the President.

I have the honour to request that I may be informed as soon as possible as to whether the above reply receives your Lordship's approval.

53

No. 96.

Colonial Office to Foreign Office.—(Received July 11.)

DOWNING STREET, *July 10, 1891.*

SIR: I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 8th instant, inclosing a paraphrase of a telegram of the 6th instant from Her Majesty's Ambassador at St. Petersburgh relating to the Behring's Sea question.

In reply, I am to state, for the information of the Marquis of Salisbury, that Lord Knutsford is of opinion that, in considering whether the Russian proposals should be accepted, it should be borne in mind that, unless the United States agree to them also, United States sealers would be free to catch seals to the west of the line of demarcation in the Treaty of 1867, so that the assent of Her Majesty's Government would appear to be necessarily conditional upon the agreement of the United States.

I am, &c.

(Signed) EDWARD WINGFIELD.

No. 97.

Sir R. Morier to the Marquis of Salisbury.—(Received July 13.)

[Extract.]

ST. PETERSBURGH, *July 7, 1891.*

I have the honour to transmit to your Lordship herewith the inclosed copy of a note, dated the 14th (26th) June, in which M. de Giers replies to my two notes of the 23rd May (4th June) and 29th May (10th June), transmitted in my of the 10th ultimo.

Owing to some accident in transmission, which is not yet explained, this note only reached my hands yesterday. In it M. de Giers points out, in reference to my second note, that it would be difficult to accede to propositions the official text of which is not known to him otherwise than through the public newspapers, and which have been brought to his notice by one only of the two Contracting Parties. Nevertheless, the Imperial Government would probably see nothing in the way of prohibiting Russian subjects from hunting seals to the east of the maritime line of 1867 if Her Majesty's Government, in a spirit of just reciprocity, would equally prohibit British subjects from fishing to the west of that line. The cruizers of both countries could, in that case, be authorized to stop on the high seas English and Russian subjects alike found contravening this arrangement in the waters of the Behring's Sea and the Okhotsk.

The note closes by the significant hint that, under any circumstances, the Governor-General of the Amoor had been instructed to take all necessary measures for protecting the Russian hunting-grounds against any dangers that might threaten them on the part of foreign hunters.

When I saw M. de Giers on Saturday he did not advert to the question, being probably under the impression, as he must have supposed that I had received his note, that I would be the first to introduce it. I have therefore not had the opportunity of obtaining from his Excellency any elucidation of the note.

[Inclosure in No. 97.]

M. de Giers to Sir R. Morier.

SAINT-PÉTERSBOURG, *le 14 (26) Juin, 1891.*

M. L'AMBASSADEUR: J'ai eu l'honneur de recevoir les deux notes de votre Excellence en date du 23 Mai (4 Juin) et du 29 Mai (10 Juin) relativement à la chasse des otaries.

Par la première de ces notes vous voulez bien m'informer que le Gouvernement de Sa Majesté Britannique est tombé d'accord avec le Gouvernement des États-Unis de l'Amérique du Nord quant à la prohibition de la chasse des otaries jusqu'au mois de Mai de l'année prochaine et invite le Cabinet Impérial à s'associer à cette mesure. Lord Salisbury a bien voulu ajouter que sans l'assentiment de la Russie il ne saurait être question de la mise en pratique de cet arrangement. Dans la seconde des deux notes susmentionnées votre Excellence modifie la proposition de son Gouvernement dans ce sens que la prohibition de la chasse des otaries ne s'étendrait plus qu'à l'est de la ligne maritime du Traité de 1867 conclu entre la Russie et les États-Unis. Le Gouvernement de Sa Majesté Britannique nous demanderait en conséquence
59 d'interdire de notre côté la chasse prohibée à l'est de cette ligne à des sujets Russes et d'autoriser les croiseurs Anglais à saisir les bâtiments qui se livreraient à cette industrie sous notre pavillon.

Tout en remerciant votre Excellence de ces communications je crois devoir observer qu'il nous serait difficile d'accéder à des propositions dont le texte officiel ne nous est connu que par les journaux et qui d'ailleurs ne nous sont faites que par l'une des deux Parties Contractantes. Quant à la ligne maritime du Traité de 1867, le Gouverne-

ment Impérial ne verrait probablement pas d'empêchement à interdire aux sujets Russes la chasse des otaries à l'est de cette région si le Gouvernement de Sa Majesté Britannique, dans un esprit de juste réciprocité, interdisait également à ses sujets la chasse susmentionnée à l'ouest de la même ligne. Les croiseurs des deux pays pourraient, en ce cas, être autorisés à arrêter les contrevenants en pleine mer, Anglais ou Russes, sans distinction, dans les eaux de Behring et d'Okhotsk, et de les livrer aux autorités nationales compétentes.

En portant ce qui précède à la connaissance de votre Excellence je m'empresse d'ajouter que le Gouverneur-Général de la Province de l'Amour recevra dans tous les cas l'ordre de prendre les mesures nécessaires pour la protection des chasses Russes d'otaries contre les dangers qui pourraient les menacer de la part des chasseurs étrangers.

Veuillez, &c.

(Signé) GIERS.

[Translation.]

ST. PETERSBURGH, *June 14 (26), 1891.*

M. L'AMBASSADEUR: I have had the honour to receive your Excellency's two notes, dated the 23rd May (4th June) and the 29th May (10th June), relating to the hunting of seals.

In the first of these notes you are good enough to acquaint me that the Government of Her Britannic Majesty have come to an Agreement with the Government of the United States of North America with regard to the prohibition of seal-hunting until the month of May next year, and that they invite the Imperial Cabinet to join in that measure. Lord Salisbury was good enough to add that without the assent of Russia there could be no question of putting this arrangement into practice. In the second of the two notes above mentioned, your Excellency modifies the proposal of your Government in the sense that the prohibition of seal-hunting would only hold good to the east of the maritime line of the Treaty of 1867 concluded between Russia and the United States. The Government of Her Britannic Majesty consequently asks us to prohibit Russian subjects on our side from the seal-hunting which is forbidden to the east of that line, and to authorize English cruizers to seize such vessels as may pursue that industry under our flag.

While thanking your Excellency for these communications, I think it right to remark that it would be difficult for us to agree to proposals of which the official text is only known to us through the newspapers, and which, moreover, have only been made to us by one of the two Contracting Parties. With regard to the maritime line of the Treaty of 1867, the Imperial Government would probably see no difficulty in prohibiting Russian subjects from hunting seals to the east of that region if the Government of Her Britannic Majesty would, in a spirit of just reciprocity, equally prohibit their subjects from hunting to the west of the same line. The cruizers of the two countries could in that case be authorized to arrest the offenders in the open sea, English or Russian, without distinction, in the waters of Behring's Sea and the Sea of Okhotsk, and to hand them over to the competent national authorities.

In making the above communication to your Excellency, I hasten to add that the Governor-General of the Province of the Amoor will in any case receive orders to take the necessary measures for the protection of the Russian seal-hunting grounds against the dangers by which they may be threatened on the part of foreign hunters.

I have, &c.

(Signed) GIERS.

No. 98.

Sir R. Morier to the Marquis of Salisbury.—(Received July 13.)

ST. PETERSBURGH, *July 9, 1891.*

MY LORD: I received your Lordship's telegram of the 8th instant early this morning, and at once addressed a note, of which I have the honour to transmit a copy herewith, to M. de Giers.

60 Not being able to spare the time, owing to the dispatch of my messenger, I requested Mr. Howard to take it himself to M. Chichkine and to urge on his Excellency that the matter might be at once taken in hand, so that a telegram of consent might be dispatched to

Vancouver's Island before the departure of the Commissioners. M. Chichkine, who has a strong opinion on the subject of the extinction of the fur-seal species, expressed his full concurrence with the mission of Her Majesty's Commissioners, and said he would do all he could to obtain the necessary permission at once. There always remained, however, the difficulty of the three Ministers to be brought into connected action.

I have, &c.

(Signed) R. B. D. MORIER.

[Inclosure in No. 98.]

Sir R. Morier to M. de Giers.

ST. PETERSBURGH, *June 27 (July 9), 1891.*

M. LE MINISTRE: In the Agreement between Her Majesty's Government and that of the United States, signed on the 15th June last, in connection with the question of seal-hunting in the Behring's Sea, it was stipulated that suitable persons designated by Great Britain should be permitted upon application to visit or remain upon the American seal islands during the present sealing season for the purpose of making such inquiries as might assist Her Majesty's Government in presenting their case to the Arbitrators, should an agreement for arbitration be arrived at, and with the ultimate view of arriving at such data with regard to seal life as might facilitate a general agreement for the preservation of the species.

I have now been instructed by Her Majesty's Government to inform your Excellency that Sir George Baden-Powell and Professor Dawson, men pre-eminently fitted for the purpose, have been selected by Her Majesty's Government to go out to the Behring's Sea and North Pacific for the purpose of investigating the conditions of seal life in those seas; and they are very desirous that, in addition to the American islands, these gentlemen should be permitted to complete their inquiry by a visit to the Russian seal islands, an important reason for this being that it will be necessary to ascertain how far the alleged diminution of seals is due merely to migration to other rookeries.

Her Majesty's Government, in instructing me to make this application to the Imperial Government, express their strong wish that the permission might be granted as quickly as possible, in order that they may be in a position to telegraph it to the Commissioners before they leave Vancouver's Island.

I avail, &c.

(Signed) R. B. D. MORIER.

No. 99.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *July 13, 1891.*

I have received your telegram of the 10th instant relating to the Agreement for arbitration in the Behring's Sea question, and I approve the reply you propose to make to the United States Government as to the objections entertained by Her Majesty's Government to the proposed wording of clause 7 of the Agreement.

No. 100.

Colonial Office to Foreign Office.—(Received July 14.)

DOWNING STREET, *July 14, 1891.*

SIR: With reference to your letter of the 19th June, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of

Salisbury, a copy of the despatch from the Governor-General of Canada, forwarding a copy of a letter addressed to the Minister of Marine and Fisheries on behalf of the British Columbia Sealers' Association, setting forth their objections to the passing of the Behring's Sea Seal Fishery Act.

61 I am also to inclose the draft of a reply which his Lordship proposes, with Lord Salisbury's concurrence, to return to this despatch.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 100.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, June 24, 1891.*

MY LORD: I have the honour to transmit herewith a copy of an approved Minute of the Privy Council, submitting copy of a letter addressed to the Minister of Marine and Fisheries on behalf of the British Columbia Sealers' Association, setting forth the objections of that body to the passing of the Bill of the Imperial Parliament to prohibit sealing in the Behring's Sea.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 100.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 22nd June, 1891.

On a Report, dated the 17th June, 1891, from the Minister of Marine and Fisheries, stating that he has received from Messrs. E. B. Marvin and Co., of Victoria, British Columbia, a letter on behalf of the British Columbia Sealers' Association, detailing the objections to the Bill then before the Imperial Parliament to prohibit sealing in Behring's Sea, which a meeting of the owners of sealing-vessels and other interested parties discussed.

The Minister observes that the Association anticipate the effect of the Bill passing in its present form will be ruinous to British subjects hitherto participating in the industry.

They are much opposed to the stipulation allowing the lessees to take 7,500 seals for food for the natives, and assert that the natives employed by the lessees are taken from Oonalaska to the seal islands, and after the expiry of the killing-season are taken back to Oonalaska, a limited number only being left on the islands during the winter.

If allowed to take 7,500, it is feared this permission would be used as a cloak to unlimited killing. They consider any close season adopted should be general, without any exception.

The Minister further observes that in the last paragraph of the communication appended, the Association ask to be allowed to send two competent men to represent their case before the Arbitrators.

The Minister appends a copy of the letter in question, together with a copy of his reply thereto.

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to transmit a copy of this Minute to the Right Honourable the Secretary of State for the Colonies for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

[Inclosure 3 in No. 100.]

Messrs. Marvin and Co. to Mr. Tupper.

VICTORIA, BRITISH COLUMBIA, *June 5, 1891.*

DEAR SIR: A meeting of owners of sealing-vessels and others interested was held last evening to take into consideration the present Bill, now before the Imperial Parliament, and the hardships that would arise from the Bill passing in the present form, and if carried into effect will be ruinous to those British subjects engaged in the business.

62 There are some matters in connection with the passing of the Bill, and also the demand made by the American Government for the privilege of taking 7,500 seals for the natives' food, which we strongly object to. We therefore lay our views before you with the object of future information and guidance of the Arbitrators in the settlement of this question, matters that are of vital importance to all those engaged in the sealing business.

In taking up the demands made by the American Government for 7,500 seals for food, for your information we beg to state that the natives employed by the lessees of the Pribyloff Islands are taken from Oonalaska to the Islands of St. Paul and St. George about the 1st June, and remain there during the killing season, which continues until about the 1st September, when they are removed back to Oonalaska. About six men are left on each island during the winter, to prevent any raid being made after the Company have taken their seals. The natives living at Oonalaska live as well as any white man can live. Those on the islands are also provided with food for the season. The plea set up by the American Government, that they want 7,500 seals to feed the natives, is a blind, and only to gain that advantage over the Imperial Government. That privilege being allowed them, what is to prevent them from taking 70,000? There will be no check to prevent them doing so.

The principal lessees of the islands, Leibes and Co., have a large cannery at Kodiak, also a fast steamer running between there and the seal islands. They can carry away any quantity of seals when they want them. The facts are not generally known, only to those engaged in the business. In the settlement of this question, should any such advantage be allowed the American Government, it will be all they would ask, for, as they would be in a position to kill all the seals they require regardless of preserving life; if it is decided to have a close season, let it be general. Give no advantage to any one, under no plea, especially that set up by the American Government, viz., food for natives.

The British Columbian sealers have exactly the same grounds to work on that the American Government claim in regard to feeding our natives. We have in all 1,000 natives employed on our vessels that live principally on the seal during the sealing season, and earn through their own industry from 500 dollars to 750 dollars while employed seven to eight months in the year. They formerly were hostile to all Whitemen. Life was not safe among them, but since the sealing industry has become a legitimate business and profitable, the Indians have become civilized and industrious, and look forward to the sealing season the same as our Eastern fishermen look forward to theirs. The change in their habits and mode of living is most remarkable when compared with the savage state they lived in before the sealing business commenced. They have now comfortable clothing, good homes, and plenty to eat, all earned by their own industry. If our own Indians can earn their own living and make money in this business, the natives of Behring's Sea, employed by the Sealing Company, can do the same, and do so, although not so well paid as our Indians. The plea set up by the American Government, "food for the natives," we strongly protest against, as a dodge on the part of the Government to get the small end of the wedge in. Another question in regard to the matter. Supposing there should be a close season? We have fifty vessels engaged in this business, employing about 2,000 men, half of them being natives, and bringing in a revenue to those employed sufficient to make them comfortable, and support their families well: also the supplies required for the vessels adds largely to the revenue of the Dominion, and helps to make up the large amount of duty collected at Victoria. What will become of the natives if this industry is closed. It may cost the Dominion millions to provide for them and keep them in order; now they are happy and contented, having comforts the same as Whitemen. If deprived of their living by the closing of sealing, a man's life would not be safe among them; also, what employment are we going to give our Whitemen, a majority of them young men, that have taken up this business for their future living, nearly all belonging to the Eastern provinces. It is too serious a matter to settle in haste, especially for the future prosperity of British Columbia and the Dominion generally. It not only gives employment to men on vessels, but has been the result of some ten new vessels being built here last year, and a further increase provided no interference is allowed to closing the sea.

If the Americans are allowed their 7,500 seals, they will gain the main point they have been seeking, while our vessels will be laid up to rot, and starvation to those

employed in the business. The seal is a migratory animal and does not belong to any one nation. This outcry by the American Government of preserving seal-life is well understood by us as meaning funds for Uncle Sam. Let the Dominion of Canada have a share. They have as much right as the other nations. If Canada will
63 only protect her subjects in matters of this kind, and not allow Uncle Sam to take all the loaves and fishes, she will be a prosperous country. Having laid the matter before you in rather a rough manner, we kindly ask your earliest consideration in this matter, and would call your attention to the facts stated, not prejudicially, but in a calm and deliberate manner, fully realizing our position to be bankruptcy and ruin to all engaged, if carried out.

We therefore humbly ask, on behalf of the sealers, that you will kindly use your influence to have the Arbitration Committee allow the Sealers' Association to send two competent men, selected by them, as representatives on our behalf.

We have, &c.

(On behalf of the Sealers' Association),
(Signed) E. B. MARVIN AND CO.

[Inclosure 4 in No. 100.]

Mr. Tupper to Messrs. Marvin and Co.

OTTAWA, *June 13, 1891.*

GENTLEMEN: I beg to acknowledge the receipt of your letter of the 5th instant. I observe what you say touching the proposal that the lessees of the United States Government may, pending a close season, take 7,500 seals for food for the natives on the Pribyloff Islands, and your suggestion that abuses might follow the concession of such a privilege, and the expression of your desire that, if a close season be adopted, it should be general without any exception.

I have considered the arrangements which you advance in support of this contention.

I also note your views touching the proposed compensation of British citizens, who may suffer from the enforcement of a close season, and have to inform you that I have inclosed a copy of your communication to his Excellency the Governor-General, and have requested his Excellency to cause your views to be communicated to the Imperial authorities as soon as possible.

Yours, &c.

(Signed) CHARLES H. TUPPER.

[Inclosure 5 in No. 100.]

*Draft of Despatch to Lord Stanley of Preston.**

DOWNING STREET, *July 8, 1891.*

MY LORD: I have the honour to acknowledge the receipt of your despatch of the 24th ultimo, transmitting copy of an approved Minute of the Privy Council, inclosing copy of a letter addressed to the Minister of Marine and Fisheries by the British Columbian Sealers' Association, in which their objections to the Imperial Behring's Sea Seal Fishery Act are set forth.

With regard to the anticipations of the Association as to the loss likely to be suffered by British subjects through the operation of the Act, I have already informed your Lordship of the decision of Her Majesty's Government with regard to the payment of compensation in such cases, and need only refer you to the communications which have already passed on the subject.

The only other question raised in the letter from the Association which appears to call for notice is their wish to be heard before the Arbitration Commission.

As you are aware, a Joint Commission of Experts has been appointed to examine all questions connected with seal life and the fur-seal industry for submission to the Arbitrators, and I request that you will cause the Association to be informed that they should lay any statements they may wish to make before this Commission of Experts in the first instance, and that, in the event of its being found necessary to call evidence before the Arbitrators in addition to that which will be presented by the Commission of Experts, Her Majesty's Government will not fail to bear their wishes in mind.

I have, &c.

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* This despatch was sent on July 16, 1891.

64 No. 101.

The Marquis of Salisbury to Sir R. Morier.

FOREIGN OFFICE, *July 15, 1891.*

SIR: I have to acknowledge the receipt of your Excellency's despatch of the 9th instant, inclosing a copy of a note which you had addressed to the Russian Government on the Behring's Sea question, and to state that your action, as reported in that despatch, is approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 102.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *July 15, 1891.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 14th instant, with its inclosures relating to the objections entertained by the British Columbian Sealers' Association to the passing of "The Seal Fishery (Behring's Sea) Act, 1891."

I am to state, for Lord Knutsford's information, that Lord Salisbury concurs in the reply which it is proposed to return to Lord Stanley of Preston's despatch on this subject.

I am, &c.

(Signed) T. H. SANDERSON.

No. 103.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received July 16.)

NEW YORK, *July 5, 1891.*

MY LORD: I have the honour to inform your Lordship that I have this day transmitted to you a telegraphic despatch, of which the following is a paraphrase:

I have the honour to inform your Lordship that I am of opinion that it is necessary that I should take with me in Behring's Sea, so as to avoid delay, the permit of the Russian Government to visit their islands should occasion arise.

I should be glad if this permit were forwarded to me—care of the Admiral, Esquimalt—if possible, by the mail leaving England on the 7th July.

I may add, in explanation of the above telegram, that as the Russian islands are as much as 2,000 miles from civilized ports, I deemed it advisable to carry with me the necessary permit in case I found it expedient to make inquiries on those islands in accordance with clause 6 of your Lordship's letter of instructions.

I have, &c.

(Signed) GEORGE BADEN-POWELL.

No. 104.

Sir R. Morier to the Marquis of Salisbury.—(Received July 17.)

[Telegraphic.]

ST. PETERSBURGH, *July 17, 1891.*

I have been informed by the Under-Secretary of State for Foreign Affairs that he felt certain that, as soon as a decision had been come to by the three Ministries interested in the question of the visit of our Commissioners to the Russian seal islands in the Behring's Sea, telegraphic instructions would be sent to the Governor of Vladivostok to see that all facilities for the investigations required shall be accorded to them.

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65 No. 105.

The Marquis of Salisbury to Sir R. Morier.

FOREIGN OFFICE, *July 17, 1891.*

SIR: I have received your Excellency's despatch of the 7th instant, inclosing a note from the Russian Government on the subject of the Agreement which has recently been concluded between this country and the United States for preventing the killing of seals during the present season in a certain specified portion of Behring's Sea.

In the course of this note M. de Giers alludes to the fact that the text of the Agreement is not known to him otherwise than through the public press.

Copies of the Agreement in the form in which it was signed were forwarded you in my despatch of the 9th instant. I have to request your Excellency to communicate a copy to M. de Giers, and to state that, in order to guard against any possible inaccuracies, Her Majesty's Government were awaiting the receipt of the signed original from Her Majesty's Minister at Washington before instructing you to place its text in the hands of the Russian Government.

With regard to the conditions on which M. de Giers states that Russia would be willing to become a party to the Agreement, you are authorized to state that, although Her Majesty's Government would be very willing to enter into an arrangement with Russia and the United States to prohibit sealing during this season to the west as well as to the east of the line of demarcation mentioned in the Agreement, they understand that the United States Government are unable to do so without fresh legislation, which is not possible at this moment, as Congress is not in session. Any agreement of this nature for the present season could therefore only be made by Russia and England alone, and it would have the effect of leaving the western portion of Behring's Sea open to United States citizens, while closing it to British and Russian subjects.

For this reason Her Majesty's Government do not think that such an arrangement as M. de Giers proposes would be desirable, and they believe that his Excellency, on consideration, will concur in their view.

I am, &c.

(Signed) SALISBURY.

No. 106.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received July 20.)

OTTAWA, *July 7, 1891.*

MY LORD: We have the honour to acknowledge the receipt of your Lordship's despatch of the 24th June, informing us that the Queen has been graciously pleased to appoint us to be her Commissioners for the purpose of inquiring into the conditions of seal life in Behring's Sea and other parts of the North Pacific Ocean, and inclosing Her Majesty's Commission under the sign manual to that effect.

We have carefully noted the several instructions contained in your Lordship's despatch under reply, and trust that, acting under these instructions, we shall successfully bring to a conclusion the matters intrusted to our charge.

We may add, that Mr. Ashley Froude commenced his duties as Secretary to the Commission on the 25th June.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 107.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received July 20.)

OTTAWA, *July 7, 1891.*

MY LORD: As your Lordship has been already informed by a telegram from Queenstown, dated the 28th June, your Lordship's despatch of the 27th June, stating that formal permission to visit the Pribyloff Islands will be handed to us by the United States authorities, has been duly received.

66 We have also to report that Mr. Consul Fraser handed to us at New York, on the 5th instant, a letter from the Treasury Department at Washington, of which a copy is inclosed, for your Lordship's information, empowering us to visit the Pribyloff Islands for the purposes of our mission.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

[Inclosure in No. 107.]

Mr. Spaulding to Mr. Williams.

TREASURY DEPARTMENT, *Washington, June 25, 1891.*

SIR: The 4th section of the *modus vivendi* respecting the fur-seal fisheries in Behring's Sea, concluded on the 15th instant, provides as follows:

"In order to facilitate such proper inquiries as Her Majesty's Government may desire to make with a view to the presentation of the case of that Government before Arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose."

As it appears from a communication, dated the 23rd instant, from the Honourable the Secretary of State, that Sir George Baden-Powell, M. P., and Professor George Mercer Dawson have been appointed Commissioners on behalf of Her Britannic

Majesty to proceed to the Pribyloff Islands for the purpose of examining into the fur-seal fisheries in Behring's Sea, and that the British Minister at this capital has requested that the necessary permission may be granted to the above-named gentlemen to visit and remain on the islands during the current fishing season, you are directed to afford Sir George Baden-Powell, M. P., and Professor George Mercer Dawson every facility to enable them to accomplish the object of their mission.

I am, &c.

(Signed) O. L. SPAULDING, *Acting Secretary.*

No. 108.

Colonial Office to Foreign Office.—(Received July 22.)

DOWNING STREET, *July 21, 1891.*

SIR: I am directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, reporting the publication of the Agreement between Her Majesty's Government and the Government of the United States for a *modus vivendi* in relation to the fur-seal fisheries in Behring's Sea.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

[Inclosure 1 in No. 108.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, June 26, 1891.*

MY LORD: I have the honour to inclose herewith a copy of an approved Minute of the Privy Council, authorizing the issue of a Proclamation giving publicity to the Agreement between Her Majesty's Government and that of the United States of the 15th instant for a *modus vivendi* in relation to the fur-seal fisheries in Behring's Sea.

I have, &c.

(Signed) STANLEY OF PRESTON.

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67 [Inclosure 2 in No. 108.]

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council, on the 19th June, 1891.

The Committee of the Privy Council for Canada, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency do cause a Proclamation to issue giving publicity to the Agreement between the Imperial Government and that of the United States of the 15th June instant for a *modus vivendi* in relation to the fur-seal fisheries in Behring's Sea.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

[Inclosure 3 in No. 108.]

Extract from the "Canada Gazette" of June 20, 1891.

Proclamation.

[L. S.] STANLEY OF PRESTON.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, &c.

To all to whom these presents shall come, or whom the same may in any wise concern, greeting.

A Proclamation.

(Signed) JNO. S. D. THOMPSON,
Attorney-General, Canada.

Whereas an Agreement for a *modus vivendi* between our Government and the Government of the United States in relation to the fur-seal fisheries in Behring's Sea was concluded on the 15th day of June, in the year of our Lord 1891, on the following terms, that is to say:

"*Agreement between the Government of Her Britannic Majesty and the Government of the United States for a Modus Vivendi in relation to the Fur-seal Fisheries in Behring's Sea.*

"For the purpose of avoiding irritating differences, and with a view to promote the friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for the preservation of the seal species, the following Agreement is made without prejudice to the rights or claims of either party:

"1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

"2. The United States Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof, the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States citizens and vessels.

"3. Every vessel or person offending against this prohibition in the said waters of Behring's Sea, outside of the ordinary territorial limits of the United States, may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have the jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

68 "4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with a view to the presentation of the Case of that Government before Arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose.

"Signed and sealed in duplicate at Washington, this 15th day of June, 1891, on behalf of their respective Governments, by Sir Julian Pauncefote, G. C. M. G., K. C. B., Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, and William F. Wharton, Acting Secretary of State of the United States.

(Signed) "JULIAN PAUNCEFOTE. [SEAL.]
"WILLIAM F. WHARTON." [SEAL.]

Now know ye, that we have by this our Royal Proclamation caused the said Agreement to be made public, to the end that the same and every part thereof may be observed and fulfilled with good faith by all our loving subjects.

Of all which our loving subjects and all others whom these presents may concern are hereby required to take notice, and to govern themselves accordingly.

In testimony whereof we have caused these our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. Witness, our right trusty and well-beloved the Right Honourable Sir Frederick Arthur Stanley, Baron Stanley of Preston, in the county of Lancaster, in the Peerage of the United Kingdom, Knight Grand Cross of our Most Honourable Order of the Bath, Governor-General of Canada.

At our Government House, in our city of Ottawa, this 19th day of June, in the year of our Lord 1891, and in the fifty-fourth year of our reign.

By command,

(Signed) J. A. CHAPLEAU, *Secretary of State.*

No. 109.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received July 23.)

OTTAWA, *July 9, 1891.*

MY LORD: We have the honour to request that your Lordship will be good enough to move the Japanese Government to supply us with information on the following points:

1. Records of fur seal-skins brought to Japan for any years in the present century.
2. Localities where seal-skins are taken.
3. Whether taken at sea or on shore.
4. Details of any known breeding places.
5. Whether, and if so what, Regulations are in force on breeding grounds.
6. List of vessels fitted out in Japan for fur-seal fishery in this and past seasons, and from what ports.
7. Whether seal fishery has increased or decreased in recent years, with causes of such increase or decrease.
8. Any other information concerning Japanese seal fisheries, especially documentary evidence.

We would venture to suggest to your Lordship that the Japanese Government should be requested to send such information on the above points as they may be able to procure direct to us, care of the Postmaster, Victoria, British Columbia.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

P. S.—I have ventured to send a copy of this despatch, privately, to Mr. de Bunsen (Legation, Japan) to-day, in order to save valuable time.

G. B-P.

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69 No. 110.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 23.)

WASHINGTON, *July 14, 1891.*

MY LORD: Immediately on the receipt of your Lordship's telegram of the 13th instant, respecting the proposed compensation clause in the Behring's Sea Arbitration Agreement, I addressed a note on the subject to the Acting Secretary of State, of which I have the honour to inclose a copy.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 110.]

Sir J. Pauncefote to Mr. Wharton.

WASHINGTON, *July 13, 1891.*

SIR: Since the receipt of your note of the 25th ultimo, of which I transmitted a copy to the Marquis of Salisbury, I have been in telegraphic communication with his Lordship respecting the two clauses (6 and 7) which, by direction of the President, you have proposed for adoption in the Behring's Sea Arbitration Convention, and also respecting the form of agreement for carrying out the arrangement for the

appointment of a Joint Commission to inquire into the conditions of seal life in Behring's Sea.

I desire at present to confine myself to the clause proposed in your note which deals with the question of compensation, namely, clause 7.

It is the only one which appears to me to raise any serious difficulty, and I trust that, after considering the following observations, and with a view to expediting the conclusion of this negotiation, the President will not object to the substitution of a clause in the form which I shall presently have the honour to submit. Her Majesty's Government have no desire to exclude from the consideration of the Arbitrators any claim of compensation in relation to the Behring's Sea fisheries which the United States Government may believe themselves entitled to prefer consistently with the recognized principles of international law. But they are of opinion that it is inexpedient, in a case involving such important issues and presenting such novel features, to prejudge, as it were, the question of liability by declaring that compensation shall be awarded on a hypothetical state of facts. Her Majesty's Government consider that any legal liability arising out of the facts as proved and established at the arbitration should be as much a question for argument and decision as the facts themselves; and, in order that this should be made quite clear, and that both Governments should be placed, in that respect, on the same footing, I am authorized by Lord Salisbury to submit the following clause in substitution for the 7th clause proposed by the President:

"7. Either Government may submit to the Arbitrators any claim for compensation which it may desire to prefer against the other Government in respect of any losses or injuries in relation to the fur-seal fishery in Behring's Sea, for which such other Government may be legally liable.

"The Arbitrators shall decide on the legality of every such claim, and, if it shall be established, they may award such compensation as in their judgment shall seem equitable."

I have, &c. (Signed) JULIAN PAUNCEFOTE.

No. 111.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 23.)

[Telegraphic.]

WASHINGTON, *July 23, 1891.*

With reference to my despatch of the 14th instant, on the subject of the Behring's Sea compensation clause, I have the honour to state that after long discussions, in the course of which I have insisted on the principle contended for in my above-mentioned despatch, I have to-day received a note from the United States Government which is to the following effect:

[See Inclosure in Sir J. Pauncefote's despatch of the 24th July, 1891: Inclosure in No. 118, *infra.*]

70

No. 113.

The Marquis of Salisbury to Mr. Fraser.

[Telegraphic.]

FOREIGN OFFICE, *July 24, 1891.*

The following is urgent:

The British Commissioners in Behring's Sea are anxious to receive information on the following points:

[See despatch from Behring's Sea Commissioners of the 9th July, 1891: No. 109.]

You should forward any information you can obtain to the Behring's Sea Commissioners, addressed to the care of the Postmaster, Victoria, British Columbia, with as little delay as possible.

No. 114.

Sir R. Morier to the Marquis of Salisbury.—(Received July 27.)

ST. PETERSBURGH, *July 22, 1891.*

MY LORD: I have this day received your Lordship's despatch of the 17th instant, in reference to the Fur-seal question and the Behring's Sea, and have addressed to M. de Giers the note of which I have the honour to inclose a copy herewith.

I have, &c.

(Signed) R. B. D. MORIER.

[Inclosure in No. 114.]

Sir R. Morier to M. de Giers.

ST. PETERSBURGH, *July 10 (22), 1891.*

M. LE MINISTRE: I have not failed to transmit to Her Majesty's Principal Secretary of State for Foreign Affairs the note which your Excellency did me the honour to address to me on the 14th (26th) June last, with reference to the Behring's Sea Agreement concluded between Her Majesty's Government and that of the United States.

With reference to the conditions on which your Excellency states that Russia would be willing to become a party to this Agreement, I am instructed to inform you that, although Her Majesty's Government would be very willing to enter into an arrangement with Russia and the United States to prohibit sealing, during this season, to the west as well as to the east of the line of demarcation mentioned in the Agreement, they understand that the United States Government are unable to do so without fresh legislation, which is not possible at this moment, as Congress is not in session.

Any Agreement of this nature for the present season could, therefore, only be made by Russia and England alone, and it would have the effect of leaving the western portion of Behring's Sea open to United States citizens while closing it to British and Russian subjects.

For this reason Her Majesty's Government do not think that such an arrangement would be desirable, and they believe that your Excellency, on consideration, will concur in their view.

I avail, &c.

(Signed) R. B. D. MORIER.

71

No. 115.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *July 27, 1891.*

SIR: I have received your despatch of the 14th instant, inclosing copy of your note to the United States Government respecting the compensation clause to be inserted in the proposed Agreement for arbitration on the Behring's Sea question.

The terms of your note are approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 116.

Mr. Howard to the Marquis of Salisbury.—(Received July 29.)

[Telegraphic.]

ST. PETERSBURGH, *July 29, 1891.*

With reference to Sir Robert Morier's telegram of the 17th instant respecting the visit of the British Commission to the Russian seal-fisheries, I have the honour to state that I have received a note from the Russian Government giving them the necessary permission and stating that instructions had been sent to the Governor-General of the Amoor Province to facilitate the object of their mission.

No. 117.

The Marquis of Salisbury to Mr. Howard.

FOREIGN OFFICE, *July 31, 1891.*

SIR: I have received your telegram of the 29th instant, reporting that the Russian Government have authorized the British Commissioners in Behring's Sea to visit the Russian seal fisheries, and that the Governor-General at Amoor has been requested to afford them every facility.

I have to request you to convey to the Russian Government the thanks of Her Majesty's Government for their action in this matter.

I am, &c.

(Signed) SALISBURY.

No. 118.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received August 3.)

WASHINGTON, *July 24, 1891.*

MY LORD: In my despatch of the 14th instant I had the honour to transmit to your Lordship a copy of the note of the 13th which I addressed to the United States Government, submitting the new clause in the Arbitration Agreement which I had been authorized by your Lordship to propose on the subject of damages. I have had several discussions at the State Department, in the course of which I have strongly contended for the principle that the validity of any claim put forward by either party should be left to the decision of the Arbitrators.

This I consider a most important point, for it is highly improbable that the United States Government should succeed in establishing their claim to an exclusive right of fishery on the high seas, except under a new rule of international law, based on exceptional circumstances, and which the Arbitrators may lay down as applicable to the present case. If so, it would seem inequitable that Great Britain should pay damages for the infraction of an *ex post facto* rule of law. Moreover, a claim of damages for injury caused to the property of the United States in the seal islands alleged to have been caused by pelagic sealing may be open to objection on the ground of its remoteness and of the impracticability of fixing any correct measure of compensation.

I have felt much anxiety lest the President should persist in the endeavour to obtain a previous admission of liability on the part
72 of Her Majesty's Government in a case involving (as I stated in my note to the United States Government) such important issues and presenting such novel features.

It was not until yesterday that I received the official reply of the United States Government to my note of the 13th instant, of which I telegraphed the substance to your Lordship.

I have the honour to inclose a copy of that reply, from which your Lordship will perceive that the President, while maintaining that the United States would be justified in insisting that Her Majesty's Government should admit responsibility in certain events, is willing to waive that point, and to modify his proposals with a view to remove what seems to be the last point of difference in this protracted discussion.

The President urges that the clause should contain a statement in general terms of the claims which each Government desires to prefer, and, in his reply, he proposes a new form in which the claims are so stated and left for the decision of the Arbitrators, thus conceding the principle for which I have contended.

The statement of the British claim in this new clause appears to me to be too restrictive, as it would seem to exclude losses and injuries arising from interference with our vessels as distinguished from actual seizures, and takes no account of the personal claims of the British subjects imprisoned and otherwise damnified in the proceedings resulting from those seizures.

I do not apprehend that the United States Government will object to our claim being stated in our own terms; and, subject to that modification, I venture to think that the clause now proposed by the President will be acceptable to Her Majesty's Government, and will practically bring this long negotiation to a satisfactory termination.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 118.]

Mr. Wharton to Sir J. Pauncefote.

WASHINGTON, *July 23, 1891.*

SIR: The President directs me to say, in response to your note of the 13th instant, that he noticed with pleasure the good progress towards a full agreement upon the terms of arbitration indicated by your statement that only the 7th clause, as proposed by this Government, appears to you "to raise any serious difficulty."

That clause was thus stated in my note of the 25th June:

"It shall be competent to the Arbitrators to award such compensation as, in their judgment, shall seem equitable, to the subjects or citizens of Great Britain whose vessels may have been seized by the United States in the Behring's Sea, if such seizures shall be found by the Arbitrators to have been unwarranted; and it shall also be competent to the Arbitrators to award to the United States such compensation as, in their judgment, shall seem equitable for any injuries resulting to the United States, or to the lessees from that Government of the privilege of taking seals on the Pribyloff Islands, by reason of the killing of seals in the Behring's Sea by persons acting under the protection of the British flag, outside of the ordinary territorial limits, and since the 1st day of January, 1886, if such killing shall be found to have been an infraction of the rights of the United States."

The objection you make to this clause is thus stated by you:

"Her Majesty's Government have no desire to exclude from the consideration of the Arbitrators any claim of compensation in relation to the Behring's Sea fisheries which the United States Government may consider themselves entitled to prefer consistently with the recognized principles of international law; but they are of

opinion that it is inexpedient, in a case involving such important issues, and presenting such novel features, to prejudge, as it were, the question of liability by declaring that compensation shall be awarded on a hypothetical state of facts. Her Majesty's Government consider that any legal liability arising out of the facts as proved and established at the arbitration should be as much a question for argument and decision as the facts themselves, and in order that this should be made quite clear, and that both Governments should be placed in that respect on the same footing," &c.

The President was not prepared to anticipate this objection, in view of the fact that Lord Salisbury, in his note of the 21st February last, had asked a specific submission to the Arbitrators of the British claim for seizures made in the Behring's Sea.

His language, which was quoted in my note of the 25th June, was as follows:

73 "There is one omission in these questions which I have no doubt the Government of the President will be very glad to repair, and that is the reference to the Arbitrator of the question, What damages are due to the persons who have been injured, in case it shall be determined by him that the action of the United States in seizing British vessels has been without warrant in international law?"

This could only be understood as a suggestion that the claims of the respective Governments should be stated and given a specific reference. And so, in the 7th clause proposed, the claim of Great Britain for seizures made is defined and referred in terms so correspondent to the request of Lord Salisbury that it cannot be supposed objection would have been made to it if it had stood alone. But a particular statement of the British claim for compensation certainly made proper, and even necessary, a like statement of the claims of the United States, and the President is not able to see that the reference proposed was in any respect unequal. If it should be found by the Arbitrators that the United States had without right seized British vessels in the Behring's Sea, the Arbitrators were authorized to give compensation; and if, on the other hand, these and other British vessels were found to have visited that sea, and to have killed seals therein in violation of the rights of the United States and to the injury of its property interest, the Arbitrators were authorized to give compensation. One is not more subject to the objection that it presents a hypothetical state of facts than the other, and both submit the question of the lawfulness or unlawfulness of the acts complained of.

The President believes that Her Majesty's Government may justly be held responsible under the attendant circumstances for injuries done to the jurisdictional or property rights of the United States by the sealing-vessels flying the British flag, at least since the date when the right of these vessels to invade the Behring's Sea and to pursue therein the business of pelagic sealing was made the subject of diplomatic intervention by Lord Salisbury. In his opinion, justice requires that Her Majesty's Government should respond for the injuries done by those vessels, if their acts are found to have been wrongful, as fully as if each had borne a commission from that Government to do the acts complained of. The presence of the master, or even of a third person, under circumstances calculated and intended to give encouragement, creates a liability for trespass at the common law, and much more if his presence is accompanied with declarations of right, protests against the defence which the owner is endeavoring to make, and a declared purpose to aid the trespassers if they are resisted. The justice of this rule is so apparent that it is not seen how in the less technical Tribunal of an international arbitration it could be held to be inapplicable.

The United States might well insist that Her Majesty's Government should admit responsibility for the acts of the Canadian sealers which it has so directly encouraged and promoted, precisely as in the proposal the United States admits responsibility for the acts of its revenue vessels. But with a view to remove what seems to be the last point of difference in a discussion which has been very much protracted, the President is willing to modify his proposal, and directs me to offer the following:

"The Government of Great Britain having presented the claims of its subjects for compensation for the seizure of their vessels by the United States in Behring's Sea, and the Government of the United States having presented on its own behalf, as well as of the lessees of the privilege of taking seals on the Pribyloff Islands, claims for compensation by reason of the killing of seals in the Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claims in accordance with justice and equity and the respective rights of the High Contracting Parties, and it shall be competent for the Arbitrators to award such compensation as in their judgment shall seem equitable."

The President thinks that a particular statement of the claims of the respective Governments is more likely to lead to a satisfactory result than the general reference proposed by you. It is believed that the form of reference now proposed by him removes the objections urged by you to his former proposal.

I have, &c.

(Signed) W. F. WHARTON, *Acting Secretary.*

No. 119.

Mr. Howard to the Marquis of Salisbury.—(Received August 3.)

ST. PETERSBURGH, *July 29, 1891.*

MY LORD: With reference to my telegram of this day's date, I have the honour to transmit herewith to your Lordship a copy of a note of the 16th (28th) instant from M. de Giers to Sir Robert Morier, acquainting Her Majesty's Ambassador that Sir George Baden-Powell and Professor Dawson are authorized to visit the Russian fisheries in the Behring's Sea, and stating that Baron Korff, Governor-General of the Amoor Province, has been informed of this fact, and has been requested to facilitate, as much as possible, the object of the mission of the above-named Commissioners.

I have, &c.

(Signed) HENRY HOWARD.

[Inclosure in No. 119.]

M. de Giers to Sir R. Morier.

SAINT-PÉTERSBOURG, *le 16 (28) Juillet, 1891.*

M. L'AMBASSADEUR: En réponse à la note de votre Excellence en date du 27 Juin (9 Juillet), je m'empresse de l'informer que Sir George Powell et le Professeur Dawson sont autorisés à visiter nos pêcheries d'otaries dans la Mer de Behring.

Je n'ai pas manqué de porter cette autorisation à la connaissance du Gouverneur-Général de la Province de l'Amour, Baron Korff, en l'engageant à faciliter, autant que possible, aux savants susmentionnés, l'accomplissement de leur tâche.

Veuillez, &c.

(Signé) GIERS.

[Translation.]

ST. PETERSBURGH, *July 16 (28), 1891.*

M. L'AMBASSADEUR: In reply to your Excellency's note of the 27th June (9th July), I hasten to inform you that Sir G. Powell and Professor Dawson have been authorized to visit our seal fisheries in Behring's Sea.

I have not failed to inform Baron Korff, the Governor-General of the Province of the Amoor, of this authorization, and to request him to assist the above-mentioned gentlemen as far as possible in the accomplishment of their task.

I avail, &c.

(Signed) GIERS.

No. 120.

Colonial Office to Foreign Office.—(Received August 3.)

DOWNING STREET, *August 1, 1891.*

SIR: With reference to your letter of the 9th May last, forwarding copies of a communication from Mr. C. Hawkins respecting the seal fishery in the North Pacific, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, copy of a despatch from the Governor-General of Canada, inclosing copy of a Minute of the Privy Council on the subject of Mr. Hawkins' statements.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 120.]

Lord Stanley of Preston to Lord Knutsford

CASCAPEDIA RIVER, NEW RICHMOND, P. Q., *July 3, 1891.*

MY LORD: With reference to your Lordship's despatch of the 20th May last, transmitting a copy of a letter from Mr. Hawkins on the subject of the seal fishery in Behring's Sea, I have the honour to forward herewith a copy of an approved
75 Minute of the Privy Council, embodying a Report of the Minister of Marine and Fisheries dealing with the question.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 120.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 27th June, 1891.

The Committee of the Privy Council have had under consideration certain papers from the Colonial Office on the subject of the seal fishery in Behring's Sea.

The Minister of Marine and Fisheries, to whom the matter was referred, observes that Mr. Hawkins states "since about the year 1885 we have received in this country (England) large numbers of seal-skins, known in the trade as the north-west coast skins, the same having been taken in the open sea, and, from appearances that are unmistakable to the initiated, are exclusively the skins of female seals pregnant; these are all shot, and I have been informed that for every skin recovered five or six are lost through sinking when struck by the shot. . . ."

The Minister further observes, in view of the numerous reports in which evidence of practical hunters and of other well-qualified authorities was submitted, refuting statements similar to the assertion made in the letter under review touching the percentage of seals struck and secured by the sealers, it would seem that no necessity exists for a reiteration of the evidence embodied in the Minute of Council approved by your Excellency on the 4th November, 1889.

The Minister, regarding the statement contained in Mr. Hawkins' communication as to what he terms the "north-west coast skins," would advert to the contention of the Canadian Government to the effect that real danger to seal life is to be found in the operations upon the hauling-grounds and rookeries increased by the catch of seals when slowly moving along or sojourning on the north-west coast of America, the females being then unquestionably in pup, before the ultimate swift and direct journey to the rookeries has begun. These seals are the first taken by the sealing fleet on their way to the Behring's Sea, and are distinguished by the sealers as the "coast catch," and by Mr. Hawkins as the "north-west coast skins."

The Minister submits that the testimony produced by Mr. Hawkins in this connection is quite in accord with the information hitherto obtained, and is most valuable in support of the contention of Canada. It has been previously pointed out that although great stress had been placed by the United States Government on the alleged necessity for prohibiting pelagic sealing in the Behring's Sea, yet no attempt had ever been made by that Government for an arrangement to curtail similar operations along the coast previous to the entry of seals into that sea.

In an attempt to vindicate the methods of the lessees of the seal islands, Mr. Hawkins proceeds: "We, on the other hand, during my experience have had annually large numbers of seal-skins from Alaska, and also from the Copper Islands, which are killed by being clubbed on land, and are selected with judgment, being the skins of young male seals: the older fighting or breeding males are spared."

This is another presentation of the case of the United States Government for the prohibiting of every other character of sealing but that adopted by the lessees, so frequently combated by your Excellency's advisers. While the Minister of Marine and Fisheries does not deem it necessary to dwell at any length upon the point, he would, in passing, invite attention to the fact that notwithstanding this statement, the United States Treasury agents now assert the contrary, and the Government of the United States appear to be acting on the Reports of their Agents.

The Minister further observes that a Minute of Council dated the 6th June, 1891, dealt at considerable length with this subject, and it included the Annual Report (1890) of Special Agent C. J. Goff, in which an alarming state of affairs at the rookeries was revealed, due, it was stated, to the indiscriminate slaughter of seals and improvident operations of the lessees. In the opinion of the Agent and his assistants it had become necessary to enforce a total prohibition of the killing of seals for an indefinite period.

The Minister submits that whatever significance Mr. Hawkins' statement may have upon the abstract question of the protection of seal life in the Pacific waters, it can have but little, if any, on the controversy between Great Britain and
76 the United States, as the evil complained of, even if as great as alleged, occurs outside the disputed area, as he himself implies in his reference to the "north-west coast skins."

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy of this Minute to the Right Honourable the Principal Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

No. 121.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received August 3.)

STEAM-SHIP "DANUBE," AT VICTORIA, BRITISH COLUMBIA,
July 16, 1891.

MY LORD: We have the honour to report that we met at Ottawa on the 6th instant, and on the same evening consulted with the Premier of Canada, Mr. Abbott, and the Minister of Marine, Mr. Tupper, on the subject of our mission.

The Governor-General was absent from Ottawa, but kindly placed Government House at our disposal.

We spent the 7th, 8th, and 9th July in Ottawa in consultation with Ministers and in collecting information and evidence.

On the evening of the 9th instant we left Ottawa by train direct for Vancouver, where we arrived on the 15th instant, and found the chartered steam-ship "Danube" awaiting us at the wharf according to our instructions.

Admiral Hotham, C. B., had crossed from Esquimalt to meet us, and informed us as to the very complete arrangements he had made for Her Majesty's ships in Behring's Sea to assist us in every way.

Shortly after our arrival a deputation, headed by Mr. Oppenheimer, Mayor of Vancouver, waited upon us on behalf of the sealing-vessel owners in the city, with whom we had a most satisfactory conference.

We left Vancouver at 6 P. M., and arrived at Victoria this day at 1 A. M. At 10 A. M. we received, as by previous arrangement, an important deputation of the Board of Trade and Sealers' Association, who gave us most valuable information, and willingly promised to procure more on certain points pending our return. We have also consulted other authorities in Victoria, and completed the equipment of the "Danube."

We leave the port this evening bound for the Pribyloff Islands.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

appointment of a Joint Commission to inquire into the conditions of seal life in Behring's Sea.

I desire at present to confine myself to the clause proposed in your note which deals with the question of compensation, namely, clause 7.

It is the only one which appears to me to raise any serious difficulty, and I trust that, after considering the following observations, and with a view to expediting the conclusion of this negotiation, the President will not object to the substitution of a clause in the form which I shall presently have the honour to submit. Her Majesty's Government have no desire to exclude from the consideration of the Arbitrators any claim of compensation in relation to the Behring's Sea fisheries which the United States Government may believe themselves entitled to prefer consistently with the recognized principles of international law. But they are of opinion that it is inexpedient, in a case involving such important issues and presenting such novel features, to prejudge, as it were, the question of liability by declaring that compensation shall be awarded on a hypothetical state of facts. Her Majesty's Government consider that any legal liability arising out of the facts as proved and established at the arbitration should be as much a question for argument and decision as the facts themselves; and, in order that this should be made quite clear, and that both Governments should be placed, in that respect, on the same footing, I am authorized by Lord Salisbury to submit the following clause in substitution for the 7th clause proposed by the President:

"7. Either Government may submit to the Arbitrators any claim for compensation which it may desire to prefer against the other Government in respect of any losses or injuries in relation to the fur-seal fishery in Behring's Sea, for which such other Government may be legally liable.

"The Arbitrators shall decide on the legality of every such claim, and, if it shall be established, they may award such compensation as in their judgment shall seem equitable."

I have, &c. (Signed) JULIAN PAUNCEFOTE.

No. 111.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 23.)

[Telegraphic.]

WASHINGTON, *July 23, 1891.*

With reference to my despatch of the 14th instant, on the subject of the Behring's Sea compensation clause, I have the honour to state that after long discussions, in the course of which I have insisted on the principle contended for in my above-mentioned despatch, I have to-day received a note from the United States Government which is to the following effect:

[See Inclosure in Sir J. Pauncefote's despatch of the 24th July, 1891: Inclosure in No. 118, *infra.*]

70

No. 113.

The Marquis of Salisbury to Mr. Fraser.

[Telegraphic.]

FOREIGN OFFICE, *July 24, 1891.*

The following is urgent:

The British Commissioners in Behring's Sea are anxious to receive information on the following points:

[See despatch from Behring's Sea Commissioners of the 9th July, 1891: No. 109.]

You should forward any information you can obtain to the Behring's Sea Commissioners, addressed to the care of the Postmaster, Victoria, British Columbia, with as little delay as possible.

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MY LORD: I have this day received your Lordship's despatch of the 17th instant, in reference to the Fur-seal question and the Behring's Sea, and have addressed to M. de Giers the note of which I have the honour to inclose a copy herewith.

I have, &c.

(Signed) R. B. D. MORIER.

[Inclosure in No. 114.]

Sir R. Morier to M. de Giers.

ST. PETERSBURGH, *July 10 (22), 1891.*

M. LE MINISTRE: I have not failed to transmit to Her Majesty's Principal Secretary of State for Foreign Affairs the note which your Excellency did me the honour to address to me on the 14th (26th) June last, with reference to the Behring's Sea Agreement concluded between Her Majesty's Government and that of the United States.

With reference to the conditions on which your Excellency states that Russia would be willing to become a party to this Agreement, I am instructed to inform you that, although Her Majesty's Government would be very willing to enter into an arrangement with Russia and the United States to prohibit sealing, during this season, to the west as well as to the east of the line of demarcation mentioned in the Agreement, they understand that the United States Government are unable to do so without fresh legislation, which is not possible at this moment, as Congress is not in session.

Any Agreement of this nature for the present season could, therefore, only be made by Russia and England alone, and it would have the effect of leaving the western portion of Behring's Sea open to United States citizens while closing it to British and Russian subjects.

For this reason Her Majesty's Government do not think that such an arrangement would be desirable, and they believe that your Excellency, on consideration, will concur in their view.

I avail, &c.

(Signed) R. B. D. MORIER.

71

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SIR: I have received your despatch of the 14th instant, inclosing copy of your note to the United States Government respecting the compensation clause to be inserted in the proposed Agreement for arbitration on the Behring's Sea question.

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[Telegraphic.]

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SIR: I have received your telegram of the 29th instant, reporting that the Russian Government have authorized the British Commissioners in Behring's Sea to visit the Russian seal fisheries, and that the Governor-General at Amoor has been requested to afford them every facility.

I have to request you to convey to the Russian Government the thanks of Her Majesty's Government for their action in this matter.

I am, &c.

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This I consider a most important point, for it is highly improbable that the United States Government should succeed in establishing their claim to an exclusive right of fishery on the high seas, except under a new rule of international law, based on exceptional circumstances, and which the Arbitrators may lay down as applicable to the present case. If so, it would seem inequitable that Great Britain should pay damages for the infraction of an *ex post facto* rule of law. Moreover, a claim of damages for injury caused to the property of the United States in the seal islands alleged to have been caused by pelagic sealing may be open to objection on the ground of its remoteness and of the impracticability of fixing any correct measure of compensation.

I have felt much anxiety lest the President should persist in the endeavour to obtain a previous admission of liability on the part
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I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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SIR: The President directs me to say, in response to your note of the 13th instant, that he noticed with pleasure the good progress towards a full agreement upon the terms of arbitration indicated by your statement that only the 7th clause, as proposed by this Government, appears to you "to raise any serious difficulty."

That clause was thus stated in my note of the 25th June:

"It shall be competent to the Arbitrators to award such compensation as, in their judgment, shall seem equitable, to the subjects or citizens of Great Britain whose vessels may have been seized by the United States in the Behring's Sea, if such seizures shall be found by the Arbitrators to have been unwarranted; and it shall also be competent to the Arbitrators to award to the United States such compensation as, in their judgment, shall seem equitable for any injuries resulting to the United States, or to the lessees from that Government of the privilege of taking seals on the Pribyloff Islands, by reason of the killing of seals in the Behring's Sea by persons acting under the protection of the British flag, outside of the ordinary territorial limits, and since the 1st day of January, 1886, if such killing shall be found to have been an infraction of the rights of the United States."

The objection you make to this clause is thus stated by you:

"Her Majesty's Government have no desire to exclude from the consideration of the Arbitrators any claim of compensation in relation to the Behring's Sea fisheries which the United States Government may consider themselves entitled to prefer consistently with the recognized principles of international law; but they are of

opinion that it is inexpedient, in a case involving such important issues, and presenting such novel features, to prejudge, as it were, the question of liability by declaring that compensation shall be awarded on a hypothetical state of facts. Her Majesty's Government consider that any legal liability arising out of the facts as proved and established at the arbitration should be as much a question for argument and decision as the facts themselves, and in order that this should be made quite clear, and that both Governments should be placed in that respect on the same footing," &c.

The President was not prepared to anticipate this objection, in view of the fact that Lord Salisbury, in his note of the 21st February last, had asked a specific submission to the Arbitrators of the British claim for seizures made in the Behring's Sea.

His language, which was quoted in my note of the 25th June, was as follows:

73 "There is one omission in these questions which I have no doubt the Government of the President will be very glad to repair, and that is the reference to the Arbitrator of the question, What damages are due to the persons who have been injured, in case it shall be determined by him that the action of the United States in seizing British vessels has been without warrant in international law?"

This could only be understood as a suggestion that the claims of the respective Governments should be stated and given a specific reference. And so, in the 7th clause proposed, the claim of Great Britain for seizures made is defined and referred in terms so correspondent to the request of Lord Salisbury that it cannot be supposed objection would have been made to it if it had stood alone. But a particular statement of the British claim for compensation certainly made proper, and even necessary, a like statement of the claims of the United States, and the President is not able to see that the reference proposed was in any respect unequal. If it should be found by the Arbitrators that the United States had without right seized British vessels in the Behring's Sea, the Arbitrators were authorized to give compensation; and if, on the other hand, these and other British vessels were found to have visited that sea, and to have killed seals therein in violation of the rights of the United States and to the injury of its property interest, the Arbitrators were authorized to give compensation. One is not more subject to the objection that it presents a hypothetical state of facts than the other, and both submit the question of the lawfulness or unlawfulness of the acts complained of.

The President believes that Her Majesty's Government may justly be held responsible under the attendant circumstances for injuries done to the jurisdictional or property rights of the United States by the sealing-vessels flying the British flag, at least since the date when the right of these vessels to invade the Behring's Sea and to pursue therein the business of pelagic sealing was made the subject of diplomatic intervention by Lord Salisbury. In his opinion, justice requires that Her Majesty's Government should respond for the injuries done by those vessels, if their acts are found to have been wrongful, as fully as if each had borne a commission from that Government to do the acts complained of. The presence of the master, or even of a third person, under circumstances calculated and intended to give encouragement, creates a liability for trespass at the common law, and much more if his presence is accompanied with declarations of right, protests against the defence which the owner is endeavoring to make, and a declared purpose to aid the trespassers if they are resisted. The justice of this rule is so apparent that it is not seen how in the less technical Tribunal of an international arbitration it could be held to be inapplicable.

The United States might well insist that Her Majesty's Government should admit responsibility for the acts of the Canadian sealers which it has so directly encouraged and promoted, precisely as in the proposal the United States admits responsibility for the acts of its revenue vessels. But with a view to remove what seems to be the last point of difference in a discussion which has been very much protracted, the President is willing to modify his proposal, and directs me to offer the following:

"The Government of Great Britain having presented the claims of its subjects for compensation for the seizure of their vessels by the United States in Behring's Sea, and the Government of the United States having presented on its own behalf, as well as of the lessees of the privilege of taking seals on the Pribyloff Islands, claims for compensation by reason of the killing of seals in the Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claims in accordance with justice and equity and the respective rights of the High Contracting Parties, and it shall be competent for the Arbitrators to award such compensation as in their judgment shall seem equitable."

The President thinks that a particular statement of the claims of the respective Governments is more likely to lead to a satisfactory result than the general reference proposed by you. It is believed that the form of reference now proposed by him removes the objections urged by you to his former proposal.

I have, &c.

(Signed) W. F. WHARTON, *Acting Secretary.*

No. 119.

Mr. Howard to the Marquis of Salisbury.—(Received August 3.)

ST. PETERSBURGH, *July 29, 1891.*

MY LORD: With reference to my telegram of this day's date, I have the honour to transmit herewith to your Lordship a copy of a note of the 16th (28th) instant from M. de Giers to Sir Robert Morier, acquainting Her Majesty's Ambassador that Sir George Baden-Powell and Professor Dawson are authorized to visit the Russian fisheries in the Behring's Sea, and stating that Baron Korff, Governor-General of the Amoor Province, has been informed of this fact, and has been requested to facilitate, as much as possible, the object of the mission of the above-named Commissioners.

I have, &c.

(Signed) HENRY HOWARD.

[Inclosure in No. 119.]

M. de Giers to Sir R. Morier.

SAINT-PÉTERSBOURG, *le 16 (28) Juillet, 1891.*

M. L'AMBASSADEUR: En réponse à la note de votre Excellence en date du 27 Juin (9 Juillet), je m'empresse de l'informer que Sir George Powell et le Professeur Dawson sont autorisés à visiter nos pêcheries d'otaries dans la Mer de Behring.

Je n'ai pas manqué de porter cette autorisation à la connaissance du Gouverneur-Général de la Province de l'Amour, Baron Korff, en l'engageant à faciliter, autant que possible, aux savants susmentionnés, l'accomplissement de leur tâche.

Veuillez, &c.

(Signé) GIERS.

[Translation.]

ST. PETERSBURGH, *July 16 (28), 1891.*

M. L'AMBASSADEUR: In reply to your Excellency's note of the 27th June (9th July), I hasten to inform you that Sir G. Powell and Professor Dawson have been authorized to visit our seal fisheries in Behring's Sea.

I have not failed to inform Baron Korff, the Governor-General of the Province of the Amoor, of this authorization, and to request him to assist the above-mentioned gentlemen as far as possible in the accomplishment of their task.

I avail, &c.

(Signed) GIERS.

No. 120.

Colonial Office to Foreign Office.—(Received August 3.)

DOWNING STREET, *August 1, 1891.*

SIR: With reference to your letter of the 9th May last, forwarding copies of a communication from Mr. C. Hawkins respecting the seal fishery in the North Pacific, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, copy of a despatch from the Governor-General of Canada, inclosing copy of a Minute of the Privy Council on the subject of Mr. Hawkins' statements.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1 in No. 120.]

Lord Stanley of Preston to Lord Knutsford

CASCAPEDIA RIVER, NEW RICHMOND, P. Q., *July 3, 1891.*

MY LORD: With reference to your Lordship's despatch of the 20th May last, transmitting a copy of a letter from Mr. Hawkins on the subject of the seal fishery in Behring's Sea, I have the honour to forward herewith a copy of an approved
75 Minute of the Privy Council, embodying a Report of the Minister of Marine and Fisheries dealing with the question.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 120.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 27th June, 1891.

The Committee of the Privy Council have had under consideration certain papers from the Colonial Office on the subject of the seal fishery in Behring's Sea.

The Minister of Marine and Fisheries, to whom the matter was referred, observes that Mr. Hawkins states "since about the year 1885 we have received in this country (England) large numbers of seal-skins, known in the trade as the north-west coast skins, the same having been taken in the open sea, and, from appearances that are unmistakable to the initiated, are exclusively the skins of female seals pregnant; these are all shot, and I have been informed that for every skin recovered five or six are lost through sinking when struck by the shot. . . ."

The Minister further observes, in view of the numerous reports in which evidence of practical hunters and of other well-qualified authorities was submitted, refuting statements similar to the assertion made in the letter under review touching the percentage of seals struck and secured by the sealers, it would seem that no necessity exists for a reiteration of the evidence embodied in the Minute of Council approved by your Excellency on the 4th November, 1889.

The Minister, regarding the statement contained in Mr. Hawkins' communication as to what he terms the "north-west coast skins," would advert to the contention of the Canadian Government to the effect that real danger to seal life is to be found in the operations upon the hauling-grounds and rookeries increased by the catch of seals when slowly moving along or sojourning on the north-west coast of America, the females being then unquestionably in pup, before the ultimate swift and direct journey to the rookeries has begun. These seals are the first taken by the sealing fleet on their way to the Behring's Sea, and are distinguished by the sealers as the "coast catch," and by Mr. Hawkins as the "north-west coast skins."

The Minister submits that the testimony produced by Mr. Hawkins in this connection is quite in accord with the information hitherto obtained, and is most valuable in support of the contention of Canada. It has been previously pointed out that although great stress had been placed by the United States Government on the alleged necessity for prohibiting pelagic sealing in the Behring's Sea, yet no attempt had ever been made by that Government for an arrangement to curtail similar operations along the coast previous to the entry of seals into that sea.

In an attempt to vindicate the methods of the lessees of the seal islands, Mr. Hawkins proceeds: "We, on the other hand, during my experience have had annually large numbers of seal-skins from Alaska, and also from the Copper Islands, which are killed by being clubbed on land, and are selected with judgment, being the skins of young male seals: the older fighting or breeding males are spared."

This is another presentation of the case of the United States Government for the prohibiting of every other character of sealing but that adopted by the lessees, so frequently combated by your Excellency's advisers. While the Minister of Marine and Fisheries does not deem it necessary to dwell at any length upon the point, he would, in passing, invite attention to the fact that notwithstanding this statement, the United States Treasury agents now assert the contrary, and the Government of the United States appear to be acting on the Reports of their Agents.

The Minister further observes that a Minute of Council dated the 6th June, 1891, dealt at considerable length with this subject, and it included the Annual Report (1890) of Special Agent C. J. Goff, in which an alarming state of affairs at the rookeries was revealed, due, it was stated, to the indiscriminate slaughter of seals and improvident operations of the lessees. In the opinion of the Agent and his assistants it had become necessary to enforce a total prohibition of the killing of seals for an indefinite period.

The Minister submits that whatever significance Mr. Hawkins' statement may have upon the abstract question of the protection of seal life in the Pacific waters, it can have but little, if any, on the controversy between Great Britain and
76 the United States, as the evil complained of, even if as great as alleged, occurs outside the disputed area, as he himself implies in his reference to the "north-west coast skins."

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy of this Minute to the Right Honourable the Principal Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

No. 121.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received August 3.)

STEAM-SHIP "DANUBE," AT VICTORIA, BRITISH COLUMBIA,
July 16, 1891.

MY LORD: We have the honour to report that we met at Ottawa on the 6th instant, and on the same evening consulted with the Premier of Canada, Mr. Abbott, and the Minister of Marine, Mr. Tupper, on the subject of our mission.

The Governor-General was absent from Ottawa, but kindly placed Government House at our disposal.

We spent the 7th, 8th, and 9th July in Ottawa in consultation with Ministers and in collecting information and evidence.

On the evening of the 9th instant we left Ottawa by train direct for Vancouver, where we arrived on the 15th instant, and found the chartered steam-ship "Danube" awaiting us at the wharf according to our instructions.

Admiral Hotham, C. B., had crossed from Esquimalt to meet us, and informed us as to the very complete arrangements he had made for Her Majesty's ships in Behring's Sea to assist us in every way.

Shortly after our arrival a deputation, headed by Mr. Oppenheimer, Mayor of Vancouver, waited upon us on behalf of the sealing-vessel owners in the city, with whom we had a most satisfactory conference.

We left Vancouver at 6 P. M., and arrived at Victoria this day at 1 A. M. At 10 A. M. we received, as by previous arrangement, an important deputation of the Board of Trade and Sealers' Association, who gave us most valuable information, and willingly promised to procure more on certain points pending our return. We have also consulted other authorities in Victoria, and completed the equipment of the "Danube."

We leave the port this evening bound for the Pribyloff Islands.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 122.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *August 12, 1891.*

I have received your despatch of the 24th ultimo.

The modification of the 7th Article of the Arbitration Agreement proposed by the President of the United States, and communicated in Mr. Wharton's note to you of the 23rd ultimo, contains the following words:

The Government of the United States having presented on its own behalf, as well as of the lessees of the privilege of taking seals on the Pribyloff Islands, claims for compensation by reason of the killing of seals in Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claims. . . .

These words involve the doctrine that Her Majesty's Government are liable to make good losses resulting from the wrongful action of persons sailing outside their jurisdiction under the British flag.

It would be impossible for Her Majesty's Government to accept such a doctrine even at the hands of an Arbitrator. Nor can they
77 admit that, by having asserted diplomatically the right of any persons to do that which an Arbitrator subsequently decides such persons cannot do, they are made liable in damages.

This 7th Article, which deals with the question of compensation, is therefore likely to give occasion for lengthy negotiations, and the question arises whether it would not be better, if the Government of the United States will agree to such a course, to sign the other six Articles as to which an agreement has been arrived at, and to proceed with the arbitration, leaving the 7th Article to be treated separately?

No. 123.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *August 22, 1891.*

I am of opinion that it will be better for you to clearly recapitulate the grounds, as set forth in the telegram from this Office of the 12th instant, on which Her Majesty's Government cannot agree to the wording of the 7th Article proposed by the President, and that, in lieu of it, you should propose one somewhat as follows:

Either of the two Governments may submit to the Arbitrators any question of fact which it may wish to put before them in reference to the claims for compensation which it believes itself or its nationals to possess against the other.

The question whether or not, and to what extent, those facts, as determined by the Arbitrators, and taken in connection with their decision upon the other questions submitted to them, render such claims valid according to the principles of international law, shall be a matter of subsequent negotiation, and may, if the two Powers agree, be referred in whole or in part to the Arbitrators.

This is not to be taken as a definitive wording, and the proposal should be so made as to leave either side free to amend it.

No. 123.*

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received August 23.)

[Telegraphic.]

SEAL ISLAND, *August 5, 1891.*

Have ascertained that this year's take of seals is already considerably in excess of 7,500. On the assumption that the limitation of catch begins only from the date of the signature of the *modus vivendi*, the United States Agent continues to kill the seals. I am posting despatch on this subject.

No. 124.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received August 23.)

[Telegraphic.]

NEWPORT, *August 23, 1891.*

With reference to your Lordship's telegram of yesterday respecting the clause in the Behring's Sea Agreement on the question of damages, I have the honour to inform your Lordship that I am writing an unofficial letter, marked Private, to the Acting Secretary of State, based on the telegram above mentioned.

No. 125.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *August 26, 1891.*

I have to request you to communicate to the United States Government Sir G. B. Powell's telegram of the 5th instant, repeated in my preceding telegram, stating that the United States Agent at Seal Island continues to kill seals, although the number already killed this year is materially in excess of the limitation agreed upon by the *modus vivendi* of the 15th June last.

You should state that Her Majesty's Government are convinced that the President will not permit any departure from the true spirit of the Agreement, and will take such measures to insure its strict observance as may seem to him to be requisite.

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78 No. 126.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received August 31.)

NEWPORT, *August 20, 1891.*

MY LORD: I transmitted to your Lordship in my despatch of the 23rd June last a copy of the Memorandum which I communicated on the 24th of that month to the Acting Secretary of State, embodying

the substance of instructions issued to the British cruizers in Behring's Sea in pursuance of the *modus vivendi*, and suggesting that an Agreement should be come to between the Governments of Great Britain and the United States for mutual indemnities in respect of acts committed by the cruizers of one nation against the vessels of the other in execution of that *modus vivendi*.

As I informed your Lordship in my despatch of the 27th June, I received a communication from the Acting Secretary of State in reply, acquainting me that the above Memorandum had been immediately transmitted to the United States Navy Department, for their information.

No answer, however, being received to the proposal contained in the latter portion of the Memorandum, I addressed a note on the 8th instant to Mr. Wharton, copy of which I have the honour to inclose, requesting to be informed, at his earliest convenience, of the views of the United States Government with respect to the suggested Agreement, and I have now received a note from him, in reply, of which I have also the honour to inclose a copy.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 126.]

Sir J. Pauncefote to Mr. Wharton.

NEWPORT, *August 8, 1891.*

SIR: On the 23rd June last I had the honour to place in your hands a Memorandum, embodying the substance of the instructions issued to British cruizers in Behring's Sea in pursuance of the *modus vivendi* signed on the 15th of that month.

The Memorandum also contained a proposal for an Agreement between the Governments of Great Britain and of the United States for mutual indemnities in respect of acts committed by the cruizers of one nation against the vessels of the other in execution of the *modus vivendi*. To that proposal I have not as yet been favoured with a reply, and I should be extremely obliged if you would be good enough to inform me, at your earliest convenience, of the views of your Government with respect to the suggested Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 2 in No. 126.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, August 17, 1891.*

SIR: I have the honour to acknowledge the receipt of your note of the 3rd instant, in which you refer to a Memorandum of the 23rd June, left with me the 24th June, in which you submitted a proposal for an Agreement between the Governments of Great Britain and the United States for mutual indemnities in respect of acts committed by the cruizers of one nation against the vessels of the other in execution of the *modus vivendi*.

The President desires me to say, in reply, that it seems to him to be quite unnatural that the two Governments, having come to a friendly understanding as to a *modus vivendi*, and the method of its enforcement, should anticipate or attempt to provide against possible breaches or violations of duty by the vessels of either country. It will be time enough, in the President's opinion, when either Government lodges against the other a complaint in this regard, to consider the question of indemnity. The President desires me to state that he hopes that no such question may arise, but that he will be prepared to meet it in a friendly spirit, if, unfortunately, differences should develop.

I have, &c.

(Signed) W. WHARTON.

79 No. 127.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 7.)

NEWPORT, *August 28, 1891.*

MY LORD: With reference to your Lordship's telegram of the 22nd instant, I have the honour to inclose copy of the private and unofficial letter which I have addressed to the Acting Secretary of State, relating to the compensation clause in the Behring's Sea Arbitration Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 127.—Private and Unofficial.]

Sir J. Pauncefote to Mr. Wharton.

NEWPORT, *August 26, 1891.*

DEAR MR. WHARTON: In my reply to your official note of the 22nd instant I stated that I hoped to be able to send an answer to your note of the 23rd ultimo in a few days.

Before doing so, however, I am anxious to explain to you privately and unofficially, as I would do verbally were I in Washington, the objection which my Government entertain to the latest form of clause relating to compensation, which has been proposed by the President for adoption as Article 7 in the Behring's Sea Arbitration Agreement. Such a private and unofficial exchange of views at this point of the negotiations may abridge the official correspondence, and facilitate a solution of the present difficulty, on the basis of a suggestion which you made when we discussed the question informally at Washington. My Government are unable to accept the form of clause proposed by the President, because it appears to them, taken in connection with your note of the 23rd ultimo, to imply an admission on their part of a doctrine respecting the liability of Governments for the acts of their nationals or other persons sailing under their flag on the high seas, which is not warranted by international law, and to which they cannot subscribe.

I need hardly say that the discussion of such a point (which after all may never arise) must prolong the negotiation indefinitely. Moreover, it seems premature to enter into such a discussion before the other questions to be submitted to the Arbitrators have been determined, and all the facts on which any liability can arise have been ascertained.

Your suggestion, to which I have referred, was to leave out altogether the question of damages from the Arbitration Agreement, and you may remember that, at the time, I did not encourage the idea, not apprehending that the clause would give rise to such protracted discussion, and being, moreover, anxious that the settlement to be arrived at should embrace and finally dispose of every point in controversy.

There is a middle course, however, which appears to me to commend itself, from every point of view, as a practical and logical solution of the present difficulty. It is to omit the 7th clause as to compensation, and to insert, in its place, a clause referring to the Arbitrators any question of fact which either Government may put to them with reference to the claims for compensation it believes itself to possess. The application of the facts to international law might be a matter for negotiation after they are determined, and, if the two Governments agree, might be referred, in whole or in part, to the Arbitrators. The clause might be worded as follows:

"Clause 7. Either of the two Governments may submit to the Arbitrators any question of fact which it may wish to put before them in reference to the claims for compensation which it believes itself or its nationals to possess against the other.

"The question whether or not, and to what extent, these facts as determined by the Arbitrators, and taken in connection with their decision upon the other questions submitted to them, render such claims valid, according to the principles of international law, shall be a matter of subsequent negotiation, and may, if the two Powers agree, be referred, in whole or in part, to the Arbitrators."

I do not, of course, propose the above wording as definitive. It should be open to amendment on either side. But if, after submitting it to the President, you should be able to inform me privately that such a clause, under the circumstances, would be acceptable to your Government, I would then address you officially in reply to your note of the 23rd ultimo, and formally make the above proposal, stating the ground on which it is based.

80 Hoping that this mode of settlement of the last point in dispute will meet with your approval, and that this effort, on my part, to bring the negotiation at once to a satisfactory termination may be successful, I remain, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 128.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 7.)

NEWPORT, *August 28, 1891.*

MY LORD: With reference to my other despatch of this date, I have the honour to transmit herewith copy of the note of the 16th instant from the Acting Secretary of State, referred to in the inclosure to my above-mentioned despatch, in which Mr. Wharton inquired when an answer may be expected to his note of the 23rd ultimo, relating to the proposed compensation clause in the Behring's Sea Arbitration Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 128.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, August 22, 1891.*

SIR: Referring to my note to you of the 23rd ultimo, relative to the proposed agreement of Arbitration of certain matters affecting the seal fisheries in Behring's Sea, I would be extremely obliged if you would be kind enough to inform me when an answer to the same may be expected.

I have, &c.

(Signed) WILLIAM F. WHARTON,
Acting Secretary.

No. 129.

Behring's Sea Commissioners to the Marquis of Salisbury.—(Received September 8.)

STEAM-SHIP "DANUBE," AT ST. PAUL ISLAND, ALASKA,
August 5, 1891.

MY LORD: We venture to think it desirable that we should at once report to your Lordship on certain points which have come to our knowledge in relation to Article 2 of the *modus vivendi*, and we inclose copy of a letter which we deemed it right to address to the Treasury Agent representing the United States Government on the Pribyloff Islands.

We send with this despatch to the nearest telegraph office, which is 2,000 miles distant, a telegram of which the following is a paraphrase:

Pribyloff Islands, 5th August.—Have the honour to inform your Lordship that this year's take of seals already considerably exceeds 7,500.

The agent of the United States Treasury continues to allow seals to be killed on the assumption that the limited catch is to commence from the date of the signing of the *modus vivendi*. Despatch follows by mail.

Immediately on our arrival here we established relations with the officials of the Government and of the North American Commercial Company of a most friendly character, and they have given us every

aid and assistance in our inquiries. But we speedily discovered that before the date of our arrival here (28th July), at the lowest estimate 8,800 seals had been killed this season, and that it was in contemplation to kill at least several hundred more.

We had understood especially from Mr. Wharton's letter to Sir J. Pauncefote of the 6th June, 1891, that the Agents of the Treasury Department had been instructed by order of the President to stop the killing when 7,500 seals had been taken, and that the Government of the United States had taken every precaution to insure the observation of the stipulation to limit the catch to 7,500.

81 At St. Paul we were informed that the Treasury Agent had been instructed on the 27th May to keep the quota of skins taken by the Company under 7,500, and that *en route* to the islands he was advised by telegraph to interpret his instructions in accordance with the United States Proclamation. He arrived at the Pribyloff Islands on the 10th June, but the said Proclamation did not reach the islands until the 2nd July. In the meantime, we find that when the quota of 7,500 seals had been killed (by the 20th June), all killing for the Company was stopped.

The Treasury Agent explained to us that he had much difficulty in interpreting the Proclamation when it arrived, as he received no supplementary instructions with it. After full consideration he decided to permit killing "for food" to continue apparently on the assumption that the limit of catch to 7,500 was to commence from the date of signing the *modus virendi*, that is on the 15th June.

We have been informed that already 1,400 seals have been killed in excess of the above number as "food seals," and that on the same assumption it is contemplated that perhaps 2,000 more will be killed this season.

The agent has given orders that no killing shall take place during the coming "stagey" season (which lasts from the beginning of August until the end of October), the skins being then of little value, but he has explained that the killing would be again resumed after that interval.

We may add that the skins killed for food become the property of the Lessee Company, and that therefore the total number of seals to be killed and placed to the credit of the Company during this season would exceed by 3,000, the 7,500 contemplated under the *modus vivendi*.

We may observe that the market value of 7,500 skins would probably reach a total of 30,000*l*. The Lessee Company are bound to provide dwellings, church, school accommodation, and 100 tons of coal for the natives, and to support the widows and orphans and the aged and infirm, but they are under no legal obligation to furnish food for the inhabitants generally. We learned, however, that they have made every preparation to provide the necessary food, and that the whole expenditure on all counts until next spring would not exceed 5,000*l*.

We examined the stores on the two islands and found ample supplies for all demands of the coming winter. Whether the ultimate charge of feeding the natives will fall on the Government of the United States or on the Lessee Company, it is equally certain that in addition to the flesh of 7,500 seals, the value of their skins will far more than repay any expenditure incurred in default of the wages earned when the full quota of seals is killed.

We feel it to be our duty, in view of the submission of the whole question to arbitration, to take the speediest means of drawing your Lordship's attention to the manner in which we have found that clause

2 of the *modus vivendi* is being dealt with on the Pribyloff Islands, in order that, if necessary, the promptest steps may be taken to draw the attention of the authorities at Washington to the matter.

We may add that as our means of communication are very uncertain, we have inclosed a copy of the telegram, as quoted above, in a despatch to the Governor-General of Canada, with a request that he will be good enough to inquire by telegraph whether it has duly reached your Lordship, and in the event of its not having done so, that he will transmit it in cypher through the Secretary of State for the Colonies.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

[Inclosure in No. 129.]

Behring's Sea Commissioners to Major Williams.

STEAM-SHIP "DANUBE," AT ST. PAUL, *July 30, 1891.*

DEAR SIR: With reference to our conversation of the 28th instant, relative to the limitation of the number of seals to be killed under the agreement come to by the Governments of the United States and Great Britain, we think you may be glad to receive this expression of our opinion, based upon the information in our possession, that the intention of the two Governments as conveyed by Article 2 of the *modus vivendi* was, that on the part of the United States the stipulation would be strictly observed to limit the catch this season to 7,500 seals, and to stop the killing when that number had been taken.

As you were good enough to invite our opinion on the above subject, we
82 venture to place it in your hands, although the question is apart from the immediate scope of our inquiry.

We remain, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 130.

Behring's Sea Commissioners to the Marquis of Salisbury.—(Received September 8.)

STEAM-SHIP "DANUBE," AT ST. PAUL ISLAND, ALASKA,
August 6, 1891.

MY LORD: In continuation of our despatch of the 16th July, we have the honour to report that after a passage of seven and a-half days from Victoria we reached Kiuliuk Harbour, Oonalaska Island, on the 24th ultimo. There we gathered information from various residents, and arranged future plans with the Senior Naval Officer in Behring's Sea, Captain Turner, R. N., of Her Majesty's ship "Nymphe."

As we were leaving for the Pribyloff Islands, the United States surveying-vessel "Albatross" arrived at Oonalaska, having on board Professor Mendenhall and Dr. Merriam; we therefore delayed our departure for a few hours in order to make their acquaintance. We then proceeded direct to the Pribyloff Islands, being accompanied by Mr. Tingle, Superintendent of the North American Commercial Company, whom we met at Oonalaska, and to whom we offered a passage to St. Paul Island.

We investigated all the seal rookeries and hauling-grounds on the island, and obtained a large mass of evidence from the officers of the United States Government and of the Company, as well as from the natives, on the subject of seal life.

The "Albatross" arrived at St. Paul on the evening of the 28th July, and in a conference with Professor Mendenhall and Dr. Merriam, we explained to them the terms of our commission; they, however, informed us that, having as yet received no formal commission from their Government, they were unable to enter into any formal discussion with us on the subject of our inquiry, but that they hoped at some future date to meet us for this purpose at Washington or elsewhere, their object in the meantime being to acquire for themselves such local knowledge as would enable them better to understand the large quantity of documentary evidence respecting seal life in the possession of the United States Government.

On the 31st July we left for St. George Island, taking with us Dr. Merriam. We examined all the breeding-grounds on that island and obtained much additional information from the Government Agents and employés of the North American Commercial Company there.

After full and careful inquiry into the various questions connected with the habits and treatment of the seals on the Pribyloff Islands, we are this day proceeding to cruize at sea for the purpose of examining the habits of the fur-seals in those parts of Behring's Sea, where we gather from the information we have received that there will be the best opportunities for such observations.

Her Majesty's ship "Pheasant" has been detailed to cruize with us, and we shall thus obtain valuable assistance in our investigations, while at the same time she will have the best opportunities of falling in with any schooners still remaining in Behring's Sea.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 131.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 8.)

[Telegraphic.]

NEWPORT, *September 8, 1891.*

I have the honour, with reference to my despatch of the 28th ultimo on the subject of the compensation clause in the Behring's Sea Arbitration Agreement, to inform your Lordship that I have received a private and unofficial answer from the Acting Secretary of State to the following effect:

[See Mr. Wharton to Sir J. Pauncefote, September 7, 1891, Inclosure in No. 135.]

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83 No. 132.

Colonial Office to Foreign Office.—(Received September 11.)

DOWNING STREET, *September 10, 1891.*

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, inclosing copy of a despatch from Sir Julian Pauncefote, together with

an approved Minute of his Privy Council, concurring in a Report by the Minister of Marine and Fisheries on the subject of certain Reports and papers relating to the conditions of seal life in the Pribyloff Islands.

I am, &c.

(Signed) R. H. MEADE.

[Inclosure 1 in No. 132.]

Lord Stanley of Preston to Lord Knutsford.

STANLEY HOUSE, *New Richmond, P. Q., August 18, 1891.*

MY LORD: I caused to be referred, for the consideration of my Government, a copy of a despatch from Her Majesty's Minister at Washington, covering copies of Reports of the United States Government Agents stationed on the Pribyloff Islands, which were laid before Congress in February last; also an extract from the "Cleveland News and Herald" of the 4th May, 1891, containing the introduction to Professor Elliot's voluminous Report on the condition of seal life in the Pribyloff Islands during the summer of 1890, which did not accompany those presented to Congress; and I have now the honour to transmit to your Lordship a copy of an approved Minute of the Privy Council concurring in a Report appended thereto by the Minister of Marine and Fisheries on the subject.

I have also the honour to inclose a copy of the above despatch from Sir Julian Pauncefote; and for the inclosures I would refer your Lordship to the British print, "United States No. 2 (1891):" "Further Correspondence respecting the Behring's Sea Seal Fisheries," p. 12, Appendix, Inclosure in No. 1; also p. 53, Inclosure 2.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 132.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 3rd August, 1891.

The Committee of the Privy Council have had under consideration a despatch, dated the 22nd May, 1891, from Her Majesty's Minister at Washington, covering copies of Reports of the United States Government Agents stationed in the Pribyloff Islands, which were laid before Congress in February last; also an extract from the "Cleveland News and Herald" of the 4th May, 1891, containing the introduction to Professor Elliot's voluminous Report on the condition of seal life on the Pribyloff Islands during the summer of 1890, which did not accompany those presented to Congress.

The Minister of Marine and Fisheries, to whom the despatch was referred, submits the annexed Report, dated the 25th July, 1891, upon the subject under consideration.

The Committee concur therein, and on the recommendation of the Minister of Marine and Fisheries advise that your Excellency be moved to forward a copy of this Minute to the Right Honourable the Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council

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84 [Inclosure 3 in No. 132.]

Report.

To his Excellency the Governor-General in Council.

The Undersigned has had referred to him a despatch from Her Majesty's Minister at Washington, dated the 22nd May, 1891, covering copies of Reports of the United States Government Agents stationed on the Pribyloff Islands, which were laid before Congress in February last; also an extract from the "Cleveland News and Herald" of the 4th May, 1891, containing the introduction to Professor Elliot's voluminous Report on the condition of seal life on the Pribyloff Islands during the summer of 1890, which did not accompany those presented to Congress.

It will be remembered that on the 27th May last the Undersigned had the honour of reporting to your Excellency upon the statement of Special Agent Goff and his assistants, in which he at some length reviewed the statements therein contained. This Report was approved by your Excellency on the 6th June, 1891, and the Undersigned would now invite attention thereto.

He had at that time occasion to regret that the *ex parte* Report of Mr. Henry W. Elliot, to which reference had frequently been made, had been withheld from publication, and not communicated to the Canadian Government.

The newspaper extract now referred to the Undersigned, however, contains a lengthy introduction to this Report of Mr. Elliot, apparently embracing the principal features dealt with in detail in the body of his Report.

This article is prefaced by the statement that Mr. Blaine is, through this Report, in possession of information not previously at his disposal, which, it is argued, cannot fail to impress upon all concerned the necessity for immediately preventing the killing of seals in the open waters of Behring's Sea; but it is to be noticed that the preponderance of the evidence referred to in the Report is entirely opposed to that particular view. It is submitted that the Report really aims at the operations on the breeding islands by the lessees of the United States Government.

Mr. Elliot says:

"I embarked upon this mission with only a faint apprehension of viewing anything more than a decided diminution of the Priblyloff rookeries, caused by pelagic sealing during the last five or six years, but from the moment of my landing at St. Paul's Island on the 21st of last May, until the close of the breeding season, those famous 'rookeries' and 'hauling-grounds' of the fur-seals thereon, and of the St. George Island, too, began to declare, and have declared, to my astonished senses the fact that their utter ruin and extermination is only a question of a few short years from date, unless prompt and thorough measures of relief and protection are at once ordered on sea and on land by the Treasury Department and enforced by it."

He enters into a lengthy explanation of the reasons for the discrepancy between his present statement and the views expressed by him with regard to the inexhaustible supply of seals upon the rookeries during the term of 1872–74, when he was "firmly satisfied that, as matters were then conducted," there was no reason to fear injury to the regular annual supply of male life necessary to the perpetuation of the rookeries.

He gives as reasons for his complete change of opinion, and for now finding "only a scant tenth of the number of young male seals which I [he] saw there in 1872," the following:

"1. From over-driving without heeding its warning first begun in 1879, dropped then until 1882, then suddenly renewed again with increased energy from year to year until the end is abruptly reached, this season of 1890.

"2. From the shooting of fur-seals (chiefly females) in the open waters of the North Pacific Ocean and Behring's Sea, began a business in 1886, and continued to date."

It will be observed that this second reason is given for the decrease principally of young males, while further on in the same Report, and throughout the whole controversy, pelagic sealing is and has been held to be particularly destructive to females.

Unlike all previous Reports of the United States Treasury Agents, this takes the initiative in ascribing the alleged enormous decrease of seal life on the rookeries primarily to the lessees of the breeding-islands; but, like all others, it reiterates the oft-refuted statement that the shooting of fur-seals (chiefly females) in the open waters of Behring's Sea and the North Pacific Ocean is responsible, though secondarily, for the alleged diminution of seals on the breeding-grounds.

85 It is worthy of notice that this appears to be the first occasion upon which United States Special Agents have attributed the falling-off to the operations of sealers in the North Pacific Ocean outside Behring's Sea; and to this, no doubt, is due the extension of the ground recently proposed by Mr. Blaine to be covered by the arbitration.

It will not be forgotten that the Undersigned, when refuting the statements as to the killing of females in Behring's Sea (the only waters under dispute), has frequently shown that it might be true that the pursuit of seals along the coast and outside Behring's Sea was destructive by reason of the killing of females with pup, during their slow movements before they enter that sea, but that, after entering, the females made a swift passage to the rookeries in a bee-line, and the danger no longer existed.

The question in dispute is not as to the destruction of seal life outside Behring's Sea, but the right of the United States to monopolize the seals in Behring's Sea to the extent of excluding other nations from their pursuit in those waters. The authorized Agents of that Government have, in the past, either failed in their duty, or were unable to appreciate the significance of the gradual and certain decline of the seals dwelt upon by Mr. Elliot; for he now reports that not until 1889 has there

been the slightest intimation in the annual declarations of the officers of the Government of the least diminution or decrease of seal life on these islands since his work of 1874 was given to the world.

He discredits the statements of these Agents as irreconcilable with the evidence of the decrease in the supply of young male seals.

The Undersigned calls attention to the striking fact that the serious decrease now alleged has occurred, it is stated, principally in the case of young males, while the United States Agents still persist in blaming pelagic sealing for its alleged disastrous results to females.

This position would appear to be as difficult of reconciliation as the statements of the other Agents are thought by Mr. Elliot to be.

A glance at his figures, which he states are so carefully and accurately compiled, discloses the fact that the percentage of the decrease in females is 62½, while that in young seal pups is over 75.

Mr. Elliot proceeds: "Naturally enough, being so long away from the field, on reading Mr. Charles J. Goff's Report for the season's work of 1889, I at once jumped to the conclusion that the pelagic sealing, the poaching, of 1886–88 was the sole cause of the shrinkage which he declared manifest on those rookeries and hauling-grounds of the Pribyloff Islands. . . . " And he goes on to say that even then, after calculating the number of skins placed on the market by pelagic sealers, he could not satisfactorily charge the whole decrease to them. He states that the class from which 85 per cent. of the pelagic catch is drawn are "females and young-born and unborn;" and while he expected this to work damage to the rookeries, he was wholly unprepared for an establishment of the correctness of Mr. Goff's Report.

"After an entire new and topographical survey and triangulation of the landed area of the seven rookeries of St. Paul Island and those of St. George Island," Mr. Elliot is impressed with the bad effect of "driving" the seals for years, which practice, in his opinion, renders them unfit for service on the breeding-rookeries, "being utterly demoralized in spirit and body," and this is now admittedly the principal cause of the reported decrease in seal life.

According to Mr. Elliot, pelagic sealing, or "poaching," as he terms it, commenced in 1886. It continued under the harassing and embarrassing interference of the United States authorities down to and including the year 1889—just four years. He describes the rookeries to have been "in splendid condition," . . . when "they passed into the hands of the United States." Now, after twenty-two years of killing operations on the islands, he suddenly discovers reasons to fear extermination of the seal species, and attributes the falling-off in a great degree to four years of pelagic sealing, beginning in 1886; in the face of this statement, in the same Report, that "that day in 1879 when it became necessary to send a sealing gang from St. Paul village over to Zapodnie to regularly drive from that hitherto untouched reserve, was the day that danger first appeared in tangible form since 1870—since 1857 for that matter." That is to say, seven years before much-abused pelagic sealing, according to Mr. Elliot, had begun.

Thus, in the opinion of the Undersigned, in the light of this and similar Reports, are his repeatedly expressed views vindicated, as also is the fact established that the protection to seal life on the islands, provided by the United States Government, is and has been wholly inadequate.

The Reports, however, reveal another fact entirely opposed to the contentions of the United States authorities and Agents, and of Professor Elliot himself.

86 This fact is, that the whole system of conducting the sealing industry, on the only places where it has been held seals could be protected, has been conceived and based upon lamentably erroneous ideas.

The state of affairs thus recorded affords a fitting commentary upon a system of protection which will admit of the constant interference, dealing torture and death to these animals in a wild state, on grounds chosen by them for annually performing their functions of procreation. It is opposed to the first instinct of all animal nature—that of self-preservation—and is admirably adapted to driving the seals from the breeding-rookeries to seek other haunts.

While the Undersigned does not consider it necessary in this connection to refer to the question of right raised by the term "poacher," as applied by Mr. Elliot to pelagic sealers, this question being one affecting an entirely distinct feature in the controversy in no way connected with the question of the preservation of seal life, he desires in passing to briefly state the following:

It has been clearly established that no attempt has ever been made by any of the Canadian sealing fleet to operate within the territorial waters of the United States. The unwarranted interference by United States revenue-cutters has in every case been out in the open waters of the sea, free to them and to the subjects and citizens of all other nations.

In his Report Mr. Elliot dwells at considerable length upon the history of the sealing industry of the Pribyloff Islands under the Russian rule previous to the acquisi-

tion of these islands by the Government of the United States. He argues that to the fact that in those earlier days the skins were air-dried (not salted as now) is due the fact that the seals were not years ago exterminated, the work of sealing being then far slower and much more difficult than now.

In his opinion the inability to rapidly cure the skins for shipment alone saved the Pribyloff rookeries from utter extermination, as at least thirteen trading organizations were engaged on these islands continuously for seventeen years in taking the fur-seal skins; and he believes, had they possessed the knowledge of salt curing now in vogue, they would have killed every fur-seal which showed itself. Yet further on he quotes from Bishop Veniaminov, that, in 1803, 800,000 seal-skins had accumulated, of which 700,000, having spoiled, had to be cut or thrown into the sea. Thus on one occasion enough skins were destroyed to cover seven years of the total take of the former American lessees, or nearly twelve years' take of the present Company, under the terms of their lease, adopting the basis of 60,000 skins per annum.

The system, or even want of system, which permitted such drains as this upon the seal life of these islands by so many Companies must have been less hurtful to seal life than the organized methods pursued under the supervision of the United States Government; for though the earlier sealers did not know how to preserve the skins when they got them, the present lessees, it is alleged, cannot get them to preserve, though only one organization has been engaged for twenty-two years, as against thirteen organizations indiscriminately working for seventeen years; and the one organization began operations with the rookeries admittedly in "splendid condition," and considered by Mr. Elliot to be practically inexhaustible.

This opinion of Mr. Elliot might have been correct in the main, but it is evident some other and more provident method of reaping the seal harvest on the islands must be devised if the stock is to be perpetuated.

The Undersigned sees no reason to reverse his opinion as to the relative effect upon the rookeries of hunting seals in the open waters of Behring's Sea, nor can he conceive it possible that such method of sealing could materially assist in bringing about the disastrous results now alleged. In his opinion it could have no more effect upon the permanency of the sealing industry than would the legitimate pursuit of any other business in like manner.

Mr. Elliot concludes by stating that, after a careful review of his investigations, he is warranted in urging—

"1. That no driving and killing of fur-seals for tax and shipment on the seal islands of Alaska be permitted by the Government for a period of at least seven years from date (1890); and

"2. That the co-operation of Great Britain and Russia be secured in perfecting our international close time, by which all killing of fur-seals in the open waters of Behring's Sea will be prohibited during the breeding season of these animals, and in order that the Representatives of Great Britain and Russia may see the truth of my statement as to what threatens to exterminate these animals if pelagic sealing as well as terrestrial sealing is not at once stopped, that a Commission of
87 British, Russian, and American experts be invited to visit the seal islands next summer, and report fairly upon the subject."

The first of these propositions, which does not affect the Canadian sealers, the Undersigned considers calls for no further reference beyond the remark (even in the light of Mr. Elliot's Report) that it is somewhat remarkable that only at this late date, after over twenty years of annual operations under Government supervision, that the United States Government is possessed of information upon which it bases the necessity for such a drastic measure.

On the second proposition the Undersigned remarks that the recent negotiations, resulting in the present *modus vivendi*, and the departure of the British and Canadian experts for the seal islands to report upon the conditions of seal life, dispose for the time being of the main feature contained therein.

Before leaving the subject, however, the Undersigned desires to invite the attention of your Excellency to the words, "*in perfecting our international close time*, by which all killing of fur-seals in the open waters of Behring's Sea will be prohibited during the breeding season of these animals," contained in the second proposition.

The words italicized by the Undersigned appear to imply the existence of an international close time for seals in the open waters of Behring's Sea, which it is proposed to perfect. This is misleading, as no such close time exists, and the only Regulations pertaining to the seal fishery of Behring's Sea are provided by enactment of the United States Congress, and applicable to the citizens of that nation alone.

With regard to the remainder of the quotation, the Undersigned observes that this question is included in the subject of the inquiry now proceeding. The Undersigned, however, would again revert to the proposal forwarded by Sir Julian Pauncefote to Mr. Secretary Blaine, 13th April, 1890, which provided for just and equitable close times for seals in Behring's Sea, covering the migrations to and from the breeding-grounds; and which was rejected by the United States Government.

A close season based upon the wording of the present proposition, "during the breeding season," might, by a strained or technical interpretation of what length of time the breeding season covered, be made practically exclusive by fixing the dates to cover the whole term, beginning with the first entrance into Behring's Sea, and ending with the departure of the seals from that sea.

This would be simply an assertion of the doctrine of *mare clausum* in another form.

The Undersigned therefore desires to impress upon your Excellency this aspect of the matter, with a view to avoiding, in any close season which might ultimately be agreed upon, a practical or actual surrender of participation in the sealing industry by Her Majesty's subjects; and establishing the fact that the carefully considered proposal already rejected by the United States contained the full measure of close time that your Excellency's advisers are at present prepared to entertain in the interest of Canadian sealers.

He therefore recommends that a copy of this Report be transmitted to the Right Honourable the Principal Secretary of State for the Colonies, for the information of Her Majesty's Government.

Respectfully submitted,

(Signed) CHARLES H. TUPPER,
Minister of Marine and Fisheries.

DEPARTMENT OF FISHERIES,
Canada, Ottawa, July 25, 1891.

[Inclosure 4 in No. 132.]

Sir J. Pauncefote to Lord Stanley of Preston.

WASHINGTON, *May 22, 1891.*

MY LORD: In accordance with instructions which I received last night by telegraph from the Marquis of Salisbury, I have the honour to transmit herewith to your Excellency an extract from the "Cleveland News and Herald" of the 4th instant, containing Professor Elliot's introduction to his Report on the condition of seal life at the Pribyloff Islands during the summer of 1890. His Report, which I am informed is very voluminous, was not included among those of the other Government Agents which were laid before Congress in February last. I take this opportunity of transmitting, at the same time, copies of the last-mentioned Reports, in case they should not be in the possession of your Government.

I have, &c.

(Signed) JULIAN PAUNCKFOTE.

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88 No. 133.

The Marquis of Salisbury to Behring's Sea Commissioners.

FOREIGN OFFICE, *September 12, 1891.*

GENTLEMEN: In reply to your despatch of the 5th ultimo, I have to state to you that Her Majesty's Government approve your note to the United States Agent at St. Paul Island respecting the limitation of the number of seals to be killed under the agreement come to by the Governments of Great Britain and the United States.

Your further proceedings, reported in the above-mentioned despatch, are also approved.

I am, &c.

(Signed) SALISBURY.

No. 134.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 14.)

NEWPORT, *September 4, 1891.*

MY LORD: I have the honour to inform your Lordship that I addressed a note on the 26th ultimo to the United States Government in the sense of your Lordship's telegram of the 26th ultimo,* complaining of the violation of the Agreement of the 15th June, 1891, with regard to the killing of seals by the United States Agent in the seal islands, and expressing the conviction of Her Majesty's Government that the President will not countenance any evasion of the true spirit of the Agreement, and will take the necessary measures to insure its strict observance.

I have now received a note from the Acting Secretary of State, in reply, in which he informs me that my statement will receive the immediate attention of his Government.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 135.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 21.)

NEWPORT, *September 10, 1891.*

MY LORD: With reference to my despatch of the 28th ultimo, transmitting copy of the private and unofficial letter which I addressed to the Acting Secretary of State on the subject of the compensation clause of the Behring's Sea Arbitration Agreement, I have now the honour to inclose a copy of the reply which I received from Mr. Wharton to that communication, and the substance of which I reported to your Lordship in my telegram of the 8th instant.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 135.—Private and Unofficial.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, September 7, 1891.*

MY DEAR SIR JULIAN: Your private and unofficial note of the 26th August was duly received, and I desire now to reply to it in the same private and unofficial manner. The President is unable to see how the damage clause last proposed by him can be held to imply an admission on the part of Great Britain "of a doctrine respecting the liability of Governments for the acts of their nationals or other persons sailing under their flag on the high seas, which is not warranted by international law." The proposition was expressly framed so as to submit to the Arbitrator the question of the liability of Great Britain for the acts of vessels sailing under its flag. It did not assume a liability, but was framed expressly to avoid this objection, which had been urged against the previous proposal. I quote from my note of the 23rd July:

89 "The United States might well insist that Her Majesty's Government should admit responsibility for the acts of the Canadian sealers which it has so directly encouraged and promoted, precisely as in the proposal the United States admits

* See No. 125.

responsibility for the acts of the revenue-vessels. But, with a view to remove what seems to be the last point of difference in a discussion which has been very much protracted, the President is willing to modify his proposal, and directs me to offer the following . . . . "

The claim of the United States was stated in my note of the 23rd July accompanying the proposal, and the President does not see how the claims of the respective Governments could be more fairly or fully submitted. This Government proposes to submit to the Arbitrators the question whether Great Britain is liable for the injury done to the seal fisheries, the property of the United States, by the Canadian vessels that have, under the stimulation and support of the British Government, been for several years engaged in the Behring's Sea. The proposal of this Government was that the Arbitrators should consider and decide such claims in accordance with justice and equity and the respective rights of the High Contracting Parties.

The President is unable to accept the last suggestion which you make in your note, as it seems to him to be entirely ineffectual. The facts connected with the seizure of Canadian sealers by the revenue-vessels of the United States on the one hand, and with the invasion of the sea and the taking of seals by the Canadian sealers on the other, are well known, and doubtless could be agreed upon by the respective Governments without difficulty. It is over the question of liability to respond in damages for these acts that the controversy exists, and the President can see no other course for this Government than to insist upon the submission of the question of the liability of Great Britain for the acts it complains of to Arbitrators. This Government does not insist that Great Britain shall admit any liability for the acts complained of, but it may well insist, if this arbitration is to result in any effectual settlement of the differences between the two Governments, that the question of Great Britain's liability shall go to the Arbitrators for decision.

If you have any suggestions to make in support of the objection that the proposal made by the President assumes a liability on the part of Great Britain, the President will be very glad to receive them and, if necessary, to reconsider the phraseology; but upon a careful and critical examination of the proposition he is unable to see that the objection now made has any support in the terms of the proposal.

I have, &c.

(Signed) WILLIAM F. WHARTON.

No. 136.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received October 9.)

[Telegraphic.]

VICTORIA, *October 8, 1891.*

Commission to-day returned Esquimalt. Await instructions in Victoria.

No. 137.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 12.)

[Telegraphic.]

WASHINGTON, *October 12, 1891.*

The United States Government urgently press for a reply to their note of 23rd July. Shall I send official reply in the sense of my private letter of 26th August to Mr. Wharton?

The middle course therein proposed, which I presume is acceptable to Canada, might yet be accepted by the President, in order to arrive at a settlement.

No. 138.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *October 15, 1891.*

In accordance with the suggestion in your telegram of the 12th instant, you are authorized to repeat officially to the United
90 States Government the proposal made in your private letter of the 26th August to Mr. Wharton respecting the Behring's Sea arbitration.

No. 139.

Colonial Office to Foreign Office.—(Received October 17.)

DOWNING STREET, *October 16, 1891.*

SIR: With reference to your letter of the 15th July, respecting the objections of the British Columbia Sealers' Association to the passing of the "Seal Fishery (Behring's Sea) Act, 1891," I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch and its inclosures from the Governor-General of Canada on the subject.

I am, &c.

(Signed) EDWARD WINGFIELD.

[Inclosure 1 in No. 139.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, October 1, 1891.*

MY LORD: With reference to your Lordship's despatch of the 16th July last relative to the objections entertained by the British Columbia Sealers' Association to the legislation proposed by Her Majesty's Government with the object of establishing a close season for seal in Behring's Sea, I have the honour to forward to your Lordship herewith copy of an approved Minute of the Privy Council, to which is appended copy of a letter addressed to the Sealers' Association by the Minister of Marine and Fisheries in the sense of your Lordship's despatch above referred to.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 139.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 21st September, 1891.

The Committee of the Privy Council have had before them a despatch dated the 16th July, 1891, from the Right Honourable the Secretary of State for the Colonies acknowledging the receipt of a Minute of the Canadian Privy Council inclosing copy of a letter from the British Columbia Sealers' Association.

The Minister of Marine and Fisheries to whom the matter was referred, now states that a reply has been forwarded by him to the Association in the sense indicated (a copy thereof is appended hereto).

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy hereof to the Principal Secretary of State for the Colonies for the information of Her Majesty's Government.

All of which is respectfully submitted.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

[Inclosure 3 in No. 139.]

Mr. Tupper to Sealers' Association.

OTTAWA, *September 10, 1891.*

GENTLEMEN: Reverting to my letter to you of the 13th June on the subject of your communication of the 5th of that month, on behalf of the Sealers' Association of Victoria, remonstrating against the proposed *modus vivendi* in Behring's Sea, I have now the honour to inform you that Her Majesty's Government is of opinion that the total cessation of sealing in Behring's Sea will greatly enhance the value of
91 the produce of the coast fishery, and does not anticipate that British sealers will suffer to any great extent by exclusion from Behring's Sea.

Her Majesty's Government, however, will be prepared to consider any case in which it is clearly established that direct loss has been suffered by a British subject through the enforcement of the prohibition against sealing in Behring's Sea.

With reference to the wish of the Association that it should be heard before the Arbitration Commission, the Secretary of State for the Colonies intimates that, as the Joint Commission of Experts has been appointed to examine all questions connected with seal life, and the fur-seal industry, for submission to the Arbitrators, you should lay any statements you desire to make before the Commission of Experts in the first instance, and that, in the event of its being found necessary to call evidence before the Arbitrators, in addition to that which may be presented to the Commission of Experts, Her Majesty's Government will not fail to bear the wishes of the Association in mind.

I have, &c.

(Signed) CHARLES H. TUPPER.

No. 140.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received October 19.)

"DANUBE," AT OUNALASKA, *September 17, 1891.*

MY LORD: For the purpose of our inquiry into the conditions of seal life in Behring's Sea and other parts of the North Pacific Ocean, we deemed it advisable to visit the Russian seal islands, and we were pleased to receive at Ounalaska on the 21st August a telegram from your Lordship informing us of the receipt of a note from the Russian Government authorizing us to visit their seal fisheries, and stating that the Governor-General at Amoor had been requested to afford us every facility.

2. We accordingly visited the Commander Islands, arriving off Behring's Island on the 1st September.

3. The Administrator, M. Grebnitzky, had not heard of us from the Amoor, but on learning of our mission, showed us every courtesy and hospitality, and from his own ample experience and observations gave us most valuable information as to the conditions of seal life in Russian waters. On Copper Island, the Government Superintendent, M. Tillmann, acting on instructions from M. Grebnitzky, gave us full information, and accompanied us to the rookeries, extending to us the most friendly courtesy.

4. We then proceeded to Petropaulowski, and there from the Commandant, M. Homyakoff, and Captain Brandt, of the Russian Imperial steam-ship "Aleut," we again received much courtesy and assistance in our inquiries.

5. We venture to hope that the Russian Government will be informed of the extremely satisfactory character of our visit to the Russian sealing-grounds, and we would take this occasion of expressing our opinion of the great value to the elucidation of the conditions of seal

life, of the information and opportunities for observation which we were afforded by the Russian authorities on the Commander Islands and in Kamschatka.

6. We inclose herewith, for your Lordship's information, copies of the letters which we addressed to the Administrator of the Commander Islands and the Commandant at Petropaulowski, expressing our sense of the valuable facilities they have afforded us.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

[Inclosure 1 in No. 140.]

The Behring's Sea Commissioners to the Administrator of the Commander Islands.

"DANUBE," AT BEHRING'S ISLAND, *September 2, 1891.*

SIR: Having been appointed Her Britannic Majesty's Commissioner to hold an inquiry into the conditions of seal life in Behring's Sea and other parts of the North Pacific Ocean, with a view to the arbitration pending on the subject between the Governments of the United States and Great Britain, we considered it to be of much importance to the success of our mission that we should obtain full information concerning the facts of seal life and the methods of killing adopted on the Commander Islands.

92 We received a confirmatory telegram from the Secretary of State for Foreign Affairs in England, stating that the Russian Government had been good enough to authorize us to visit their seal fisheries, and that the Governor-General at the Amoor had been requested to afford us every facility in the prosecution of our inquiries.

Not having time to communicate with the Governor-General at the Amoor, we ventured to come to Behring's Island, and we have had the good fortune to meet with you, and now would beg to tender this expression of our best thanks for the courtesy with which you have received us, and for the valuable and full information which your long experience and accurate knowledge of all connected with sealing enabled you to afford us.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

[Inclosure 2 in No. 140.]

The Behring's Sea Commissioners to Mr. Homyakoff.

"DANUBE," AT PETROPAULOWSKI, *September 9, 1891.*

SIR: We have the honour, before we leave Petropaulowski, to convey to you our thanks for the courtesy with which you have received us during our visit to your command, and for the information which you have so freely placed at our disposal.

Having been appointed Her Britannic Majesty's Commissioners to investigate the conditions of seal life in the North Pacific Ocean, with a view to the preservation of the fur-seal, we deemed it specially advisable to obtain full information concern ing the Russian seal islands.

We received a telegraphic despatch from the Secretary of State for Foreign Affairs in England stating that the Russian Government had been good enough to authorize us to visit their seal fisheries, and that the Governor-General at the Amoor had been requested to afford us every facility in the prosecution of our inquiries.

As the limited time at our disposal did not admit of our communicating with the Governor-General at the Amoor, we would beg you to be good enough to inform his Excellency of our visit here, and to convey to him our high appreciation of the manner in which you have received us.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 141.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received October 19.)

"DANUBE," AT OUNALASKA, *September 17, 1891.*

MY LORD: In continuation of our despatch of the 6th August last, we have the honour to report that since that date our proceedings have been as follows:

2. Our first cruize was to the eastward and northward, with a view to observing the facts of seal life in those directions, and acquiring trustworthy information as to the northern limit of the fur-seal.

3. We visited the native and other settlements on Nunivak Island, Cape Vancouver, St. Matthew Island, St. Lawrence Island, and Plover Bay. On our voyage northwards, and on our return journey to the Pribyloff Islands from a north-westerly direction, we carefully recorded all seals seen at sea. On this cruize we received valuable assistance from Lieutenant-Commander Hadley in Her Majesty's ship "Pheasant."

4. On reaching St. Paul Island on the 19th August we again examined some of the rookeries to note the difference in their appearance after a fortnight's interval, and then, proceeding to Plimlink Harbour, Ounalaska, to consult with the commanding officers of the English and United States war-ships as to future movements, we left that port on the 24th August for the westward, calling at the Islands of Atka and Attoo, on which are the only remaining native settlements of the western part of the Aleutian chain.

5. Our ultimate object being to visit the Russian seal islands, Her Majesty's ship "Porpoise" was detailed to accompany us, she being on her way back to the China Station.

6. The "Porpoise," under the command of Captain J. Leslie
93 Burr, from whom we received every assistance and attention, keeping a more northerly course to look for seals and schooners, joined us at Attoo on the 29th August.

7. We proceeded to the Commander Islands and to Petropaulowski, and on this portion of our cruize we are addressing a separate despatch to your Lordship.

8. Leaving Petropaulowski on the 10th September, we shaped our course for the Pribyloff Islands, so as to strike them from a westerly direction, keeping an accurate record of all seals observed.

9. Paying our final visit to the rookeries on St. Paul Island after a further interval of twenty-six days, we found that Mr. Stanley Brown, having completed his full observations of seal life on behalf of the American Commissioners, had just left the island.

10. We thus secured the opportunity of making the latest observations of several important points in relation to our inquiry.

We now propose to continue our investigations by the collection, on our return journey to Victoria, of evidence from those engaged in sealing on the coast of British Columbia.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 142.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 19.)

[Telegraphic.]

WASHINGTON, *October 19, 1891.*

With reference to your Lordship's telegram of the 15th instant, I addressed a note to the Acting Secretary of State on the 17th instant, in the sense of my private letter to him, and officially repeated the proposal made by your Lordship.

I called by request at the State Department to-day, and Mr. Wharton asked me informally to submit two alternative clauses to your Lordship.

A disclaimer is contained in the first clause of any admission of the liability of Great Britain being implied from the terms of the President's clause 7.

The second is a clause to be substituted for the President's clause, and is in the sense of your Lordship's proposal.

The text of the two clauses follows:

[See Inclosure 1 in Sir J. Pauncefote's despatch of October 23, 1891: Inclosure 1 in No. 160, *infra*.]

Will your Lordship authorize me to inform the United States Government that you accept the second clause, in which case they will at once propose it in answer to my note of the 17th instant?

It will be left to further negotiation to settle the choice of Arbitrators and place of sitting.

No. 143.

Memorandum by Sir G. Baden-Powell on the Limitation of the Number of Fur-seals to be taken on the Pribyloff Islands in 1891.—(Received at the Foreign Office, October 20.)

LIMITATION EXCEEDED.

By Agreement between the United States and Great Britain not more than 7,500 seals were to be taken on the Pribyloff Islands in 1891.

2. On visiting the Pribyloff Islands in July and August 1891, the British Commissioners found that since the opening of the season and up to the 4th August about 9,100 seals had been taken, and that it was in contemplation to kill about 2,900 more before the close of the season, making a total for the year of 12,000.

3. The explanation of this excessive killing is to be found in the interpretation placed by the authorities in the seal islands on the terms of the *modus vivendi* of June 1891.

4. The clause (No. 2) of the *modus vivendi* runs thus: "The United States Government will prohibit seal-killing for the same period" (until May 1892) "in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives). . . ."

INTENTION OF UNITED STATES GOVERNMENT IN IMPOSING LIMIT.

5. The intention of the President of the United States in insisting upon this proviso as to 7,500 is evident in the various statements officially made on behalf of the United States.

6. On the 25th April, 1891, the President instructed Mr. Blaine, the Secretary of State, to inform Sir Julian Pauncefote: " . . . Some seals must be killed by the natives for food; . . . the lessees are bound under their lease . . . to feed and care for the natives, . . . and for this service, a very expensive one, . . . the lessees should find their compensation in taking a moderate number of seals."

7. Mr. Blaine, in his letter to Sir Julian Pauncefote of the 4th May, 1891, correctly explains that under their lease the Company is bound to furnish to the natives—

(1.) Dried salmon.
(2.) Salt and barrels for preserving meat.
(3.) 80 tons of coal.
(4.) Dwellings in good repair.
(5.) Schools and teachers.
(6.) Church.
(7.) Physicians and medical stores.
(8.) Necessaries of life for widows and orphans, aged and infirm, who are unable to provide for themselves.

8. Mr. Blaine adds: "The comfort, possibly the safety, of all these human beings is dependent on the Company. . . . If the Company shall . . . be deprived of all privilege of taking seals, they certainly could not be compelled to minister to the wants of these 300 inhabitants for an entire year. If these islands are to be left to charity, the North American Company is under no greater obligation to extend it to them than any other citizens of the United States. It evidently requires a considerable sum of money to furnish the supplies named in the lease. . . . If the lessees are not to be allowed payment in any form for the amount necessary to support these 300 people on the islands, they will naturally decline to expend it. . . . No appropriation of money has been made by Congress for the purpose."

9. Mr. Blaine continues, in conclusion: "In this exigency the President (proposes to) concede to the North American Company the right to take a sufficient number of seals, and no more than sufficient to recompense them for their outlay in taking care of the natives, and that . . . all commercial killing of seals be prohibited pending the result of arbitration. . . . The Secretary of the Treasury . . . after full consideration has limited the number to 7,500 to be killed by the Company to repay them for the outlay demanded for the support of the 300 people on the Pribyloff Islands.

10. On the 6th June, 1891, Mr. Wharton, the Acting Secretary of State, writes to Sir Julian Pauncefote: "I am directed by the President . . . to inform Lord Salisbury that . . . in order to insure such control pending these negotiations, the Agents of the Treasury Department who have been dispatched to the seal islands have been instructed to stop the killing when 7,500 have been taken, and to await the arrival of further orders; though ordinarily the taking of seals on the islands does not begin until about the 1st July. . . . The President is sure that Lord Salisbury will not question the absolute good faith of this Government in observing its stipulation to limit the catch to 7,500."

11. It is quite evident, therefore, that the total of 7,500 was to include all seals killed for native's food or for the purposes of the Company, as

the skins in both cases would become the property of the Company, and by their sale the Company would recoup itself for the expenditure it was under obligation to make on behalf of the natives, and also for any additional expenditure which it might incur in providing food for the natives during the rest of the autumn and winter. But all commercial killing of seals was to be prohibited. In brief, the limit of 7,500 was to include all seals killed on the islands within the year, the skins thus obtained being considered of sufficient value to provide for all expenses incurred for the subsistence and care of the natives over a period during which the prohibition of the usual killing would deprive the natives of their means of earning a livelihood.

12. It is to be noted that the President and Mr. Blaine had been misinformed as to the actual obligations of the Company under their
95 lease. The Company is not bound "to feed the natives," nor is the "safety of the natives dependent on the Company." In reality the State alone is responsible if by an act of State the natives are deprived of their means of livelihood and threatened with starvation.

GOVERNMENT ACTION ON ISLANDS.

13. It is also to be noted that Colonel Murray, the Sub-Agent of the Treasury in charge of the islands, informed the British Commissioners on the 19th August, 1891, at St. Paul Island, that the Company had already made a charitable advance of 2,700 dollars to the natives towards their winter's support, but that he had informed the Company that he was authorized to provide the natives during the rest of the year with everything that they really required, at the Government expense, and that therefore the natives might spend the Company's advance on whatever they pleased. He also explained to the Commissioners that the Treasury was formally committed to such expenditure, and that the money would be provided out of the general vote, which would be passed in the usual course by Congress in the Appropriation Act.

14. Colonel Murray also stated that absolute orders had been made to stop this year all killing of seal pups, which in previous years had provided the natives with 4,000 or 5,000 carcasses for food, and also to stop all killing of "blue" foxes, which had hitherto afforded wages to the natives during the winter.

15. This year there will necessarily be a shorter supply of seal meat, as comparatively few seals have been killed; but there are still many to be killed for winter storage, and there will be no check on the other ordinary local food supplies, viz., sea lion, fish, and birds.

ACTION OF COMPANY ON ISLANDS.

16. Both at St. Paul and St. George I examined the stores, and found that the Company, in anticipation of the winter's needs, had ample stocks of provisions, special in some cases, including salt salmon, beef and pork, flour, biscuits, sugar, and tea.

17. In regard to the cost of providing for the natives, Mr. Tingle, the Company's energetic Superintendent, informed me that he was authorized to expend up to 25,000 dollars (5,000*l.*), but that he did not anticipate a much greater expenditure than 16,000 dollars (3,200*l.*) to 18,000 dollars (3,600*l.*) to completely provide for the natives during the coming winter. This estimate gives about 1*s.* per day per man, woman, and child for food and necessaries, and is exclusive of housing and fuel, nor does it include such wages as may have been earned already or may

yet be earned in seal-killing, house-painting, and other work on which it is contemplated to employ the natives. Mr. Tingle added that if the Company chose to refuse supplies the Government was bound to supply them, but that he had special instructions, if necessary, to provide for all the needs of the natives, and that he was prepared so to do.

FINANCIAL RESULTS.

18. In regard to the actual number of seal-skins available to meet this expenditure, I found, after careful examination of the books of the Company and Government, and inquiry of the officials, that the approximate numbers were as follows:

On stock from last year (1890)	3,500
Killed before 15th June, 1891	4,500
Killed between 15th and 20th June	3,000
Killed between 20th June and 4th August	1,600
To be killed in autumn	2,900
Total skins available (1891)	15,500

The stock brought over from the previous year comprises the skins taken in excess of that year's permitted quota, and is customarily carried to the account of the next year's quota. The estimated number of 4,500 killed before the 15th June, 1891, was made by the Treasury Agent, and would leave 3,000 killed before the 20th June, on which day there is entered in the official Government log the note, "This killing filled the quota of 7,500."

The Treasury Agent informed me that he was permitting a total of 7,500 to be killed after the 15th June, so that there remained 2,900 to be killed in the autumn, seeing that 4,600 had been killed between the 15th June and the commencement of the "stagey" season early in August.

96 19. The Company will thus have for sale this year not less than 15,000 skins, of a probable value, at 20 dollars the skin, of 300,000 dollars (60,000*l.*), about one-half of which would accrue to the Government for taxes. The expenses on the islands, on behalf of the natives, would not exceed 5,000 dollars (1,000*l.*). The additional expenses of providing food for the natives, which the Government of the United States have undertaken, are estimated not to exceed a total of 20,000 dollars (4,000*l.*).

20. The Government of the United States are presumably entitled to insist that the quota for this year had been fixed at 7,500, with the special objects of defraying certain expenses, and of preventing any killing for purely commercial purposes, and that therefore any skins accruing to the Company in excess of this 7,500 must be stored to the account of next year's quota. Even if this rigid view were taken, the Company would secure a trade revenue of 15,000*l.* to cover an expenditure of 1,000*l.*, while the Government would receive a tax revenue of 15,000*l.* to cover an expenditure of 4,000*l.* But if this reservation be not insisted on, the respective revenues would yield net profits to the Company of 29,000*l.*, and to the Government of 26,000*l.*, a result certainly not contemplated by the President.

ACTION OF TREASURY AGENT ON ISLANDS.

21. In regard to the action of the local United States authorities, I found that Major Williams, the Treasury Agent for the Pribyloff Islands, before leaving San Francisco for the islands, that is before the

27th May, 1891, had been instructed to keep the Company's quota of skins under 7,500 until further orders. Subsequently he was instructed, by telegraph, to "modify his instructions in accordance with the Proclamation." On the 20th June he recorded in the official log that the Company's quota of 7,500 had been reached. He permitted, however, two killings to take place for "food skins" on the 25th and the 29th June, yielding 609 skins, before he received the Proclamation on the 2nd July. The Treasury Agent did not seem to be aware that all accepted food skins are placed to the account of the Company's quota.

On receipt of the Proclamation, Major Williams, having no other instructions, stopped all killing, and, as he told us, thought the matter over for three days, consulting with Captain Cotton, the United States Senior Naval Officer in Behring's Sea, and others. He came to the conclusion that the limit of catch was to be within the period between the signing of the *modus vivendi* and May 1892. Between the 15th June and the 5th July about 3,600 skins had been taken, and Major Williams decided that 3,900 more skins were to be taken before next May. Up to the beginning of August, when the skins became "stagey" and unmarketable, about 1,000 more skins had been taken, leaving a total of 2,900 skins to be taken in the autumn, after the "stagey" season ends in November.

22. On discussing the matter with Professor Mendenhall and Dr Merriam, the Behring's Sea Commissioners (designate) of the United States, we found they had talked over matters with the local officials, but had no previous knowledge of the subject or of the correspondence in which the President's intention was expressed. On the 5th August, 1891, Dr. Merriam again opened the subject to me, saying that Colonel Murray had explained that only 6,000 had as yet been killed, adding, "Of course it only means after the date of signing the *modus vivendi*." Professor Mendenhall, chancing to come up at the same time, concurred in Dr. Merriam's view. In reply to my inquiry they did not know that Major Williams had been instructed on the 27th May, on his way to the islands, to stop killing at 7,500; nor that in the official log was the entry on the 20th June, "This filled the quota of 7,500."

23. It would therefore appear that the United States authorities on the islands had not been in any way specially instructed beyond the clear order given on the 27th May, 1891, long antecedent to the 15th June, to stop killing when 7,500 had been taken—an order obviously in keeping with the agreement come to preliminary to the signing of the *modus vivendi*, that on the President's suggestion the Company should be permitted this year to take 7,500 skins and no more, and these only for a specific purpose.

SUMMARY.

24. Mr. Blaine wrote on the 4th May, 1891: "The President cannot leave these worthy and innocent people to the hazard of starvation, even to secure any form of agreement with Lord Salisbury touching seal life." The President therefore suggests, and Lord Salisbury accepts, the proviso that the Company should be allowed, in the words of the President, "to take a sufficient number of seals, and no more
97 than sufficient, to recompense the Company for their outlay in taking care of the natives." Major Williams, the particularly able Treasury Agent on the islands, was placed in a position of much complexity and difficulty, and decided to the best of his judgment. Indeed, every one concerned has acted in perfectly good faith. It was entirely due to the meagreness and misunderstanding of instructions that the remarkable *results* above detailed have been brought about.

In a word, the Company receives skins of a market value of 30,000*l.* to defray expenses not exceeding 1,000*l.* The Government secures a tax revenue of 30,000*l.* to meet expenses not exceeding 4,000*l.*

25. It is a matter for much satisfaction that there are thus secured funds more than ample to provide for "the subsistence and care of the natives." It is a matter for regret that when, with a view to the preservation of seal life, an agreement had been come to to prohibit for this year, so far as possible, the killing of fur-seals, there should have been sanctioned on the Pribyloff Islands the killing of 4,500 seals in excess of the very liberal limit permitted under the Agreement.

The disposal of the excess of skins thus obtained is a matter for the immediate consideration of the Governments concerned.

(Signed) GEORGE BADEN-POWELL.

AUGUST 10, 1891.

No. 144.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *October 20, 1891.*

I have received your telegram of the 19th instant, containing the text of two alternative clauses suggested by the United States Government with regard to the submission to arbitration of claims for compensation arising out of the killing of seals in Behring's Sea.

You are authorized to accept the second of the two clauses proposed.

No. 145.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 20.)

[Telegraphic.]

WASHINGTON, *October 20, 1891.*

Referring to your Lordship's telegram of to-day, I presume that there is no objection to the Joint Commission Article being also signed by me.

No. 146.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *October 21, 1891.*

You are authorized to sign the Article providing for a Joint Commission to investigate the facts relating to seal life in Behring's Sea, as suggested in your telegram of the 20th instant.

No. 147.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 22.)

WASHINGTON, *October 12, 1891.*

MY LORD: In my despatch of the 4th September last I had the honour to report that, in accordance with your Lordship's instructions, I addressed a note to the United States Government calling their attention to the violation of Article 2 of the Behring's Sea Agreement for a *modus vivendi*, signed on the 15th June last (which limited the killing of seals on the islands until May 1892 to 7,500), and expresing the conviction of Her Majesty's Government that the President would not countenance any evasion of the true spirit of the Agreement, and would take the necessary measures to insure its strict observance.

98 I have now the honour to inclose copies of that note, and of the reply of the United States Government, which I received on the 10th instant. In transmitting these documents I venture to submit to your Lordship the following observations.

No question can reasonably arise as to the meaning of the Agreement as understood by the two Governments. Your Lordship will remember that when Mr. Blaine first proposed a reservation of the right to kill a limited number of seals on the islands for the care and subsistence of the natives, I objected to the suggestion as detracting from the principle of equality which was a feature of the original proposal. Mr. Blaine, in his note to me of the 4th May, 1891 (of which a copy was inclosed in my despatch of the 5th of that month),* dwelt at great length on the various grounds, principally humanitarian, upon which the proposal was based, and concluded as follows:

"In this exigency the President instructs me to propose to Lord Salisbury that he concede to the North American Company the right to take a sufficient number of seals, and no more than sufficient, to recompense them for their outlay in taking care of the natives, and that, in the phrase of the President, all 'commercial killing of seals be prohibited pending the result of arbitration.'

"The Secretary of the Treasury has a right to fix the number necessary to the end desired. After full consideration, he has limited the number to 7,500 to be killed by the Company to repay them for the outlay demanded for the support of the 300 people on the Pribyloff Islands."

Her Majesty's Government consented to the reservation, on the terms and for the purposes above mentioned, and, in the course of the further negotiations, they pointed out that "it was on the fidelity with which the condition of not killing more than 7,500 seals was observed that the equality of the proposed Agreement depended." They therefore asked for facilities for the supervision by British agents of the proceedings of the Company on the seal islands. To this the Acting Secretary of State, in his note to me of the 6th June, 1891 (of which a copy was inclosed in my despatch of the 9th June), replied as follows:

"He" (the President) "directs me to ask you to remind Lord Salisbury that the limitation of the killing of seals upon the islands is absolutely within the control of the United States, as a daily count is made by sworn officers, and to inform him that already, in order to insure such control pending these negotiations, the agents of the Treasury Department who have been dispatched to the seal islands have been

* See "United States No. 2 (1891)," p. 5.

In a word, the Company receives skins of a market value of 30,000*l.* to defray expenses not exceeding 1,000*l.* The Government secures a tax revenue of 30,000*l.* to meet expenses not exceeding 4,000*l.*

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MY LORD: In my despatch of the 4th September last I had the honour to report that, in accordance with your Lordship's instructions, I addressed a note to the United States Government calling their attention to the violation of Article 2 of the Behring's Sea Agreement for a *modus vivendi*, signed on the 15th June last (which limited the killing of seals on the islands until May 1892 to 7,500), and expresing the conviction of Her Majesty's Government that the President would not countenance any evasion of the true spirit of the Agreement, and would take the necessary measures to insure its strict observance.

98 I have now the honour to inclose copies of that note, and of the reply of the United States Government, which I received on the 10th instant. In transmitting these documents I venture to submit to your Lordship the following observations.

No question can reasonably arise as to the meaning of the Agreement as understood by the two Governments. Your Lordship will remember that when Mr. Blaine first proposed a reservation of the right to kill a limited number of seals on the islands for the care and subsistence of the natives, I objected to the suggestion as detracting from the principle of equality which was a feature of the original proposal. Mr. Blaine, in his note to me of the 4th May, 1891 (of which a copy was inclosed in my despatch of the 5th of that month),* dwelt at great length on the various grounds, principally humanitarian, upon which the proposal was based, and concluded as follows:

"In this exigency the President instructs me to propose to Lord Salisbury that he concede to the North American Company the right to take a sufficient number of seals, and no more than sufficient, to recompense them for their outlay in taking care of the natives, and that, in the phrase of the President, all 'commercial killing of seals be prohibited pending the result of arbitration.'

"The Secretary of the Treasury has a right to fix the number necessary to the end desired. After full consideration, he has limited the number to 7,500 to be killed by the Company to repay them for the outlay demanded for the support of the 300 people on the Pribyloff Islands."

Her Majesty's Government consented to the reservation, on the terms and for the purposes above mentioned, and, in the course of the further negotiations, they pointed out that "it was on the fidelity with which the condition of not killing more than 7,500 seals was observed that the equality of the proposed Agreement depended." They therefore asked for facilities for the supervision by British agents of the proceedings of the Company on the seal islands. To this the Acting Secretary of State, in his note to me of the 6th June, 1891 (of which a copy was inclosed in my despatch of the 9th June), replied as follows:

"He" (the President) "directs me to ask you to remind Lord Salisbury that the limitation of the killing of seals upon the islands is absolutely within the control of the United States, as a daily count is made by sworn officers, and to inform him that already, in order to insure such control pending these negotiations, the agents of the Treasury Department who have been dispatched to the seal islands have been

* See "United States No. 2 (1891)," p. 5.

instructed to stop the killing when 7,500 have been taken, and to await the arrival of further orders; though, ordinarily, the taking of seals on the islands does not begin until about the 1st July. The enforcement of an agreed limitation being so fully in the control of the United States, the President is sure that Lord Salisbury will not question the absolute good faith of this Government in observing its stipulation to limit the catch to 7,500."

The two Governments therefore agreed that, up to May 1892, only 7,500 seals should be killed for the support of the 300 people on the Pribyloff Islands, and that all "commercial killing" (to use the language of Mr. Blaine) should be stopped. It is important to note that the agents of the United States Treasury Department, who had been dispatched to the seal islands long before the signature of the Agreement, had been instructed as far back as the 27th May "to stop the killing when 7,500 had been taken."

The following are the Articles of the Agreement relating to the restriction on the killing of seals:

1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

2. The United States Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States citizens and vessels.

It is difficult to understand by what process of reasoning the United States Treasury Agent at the seal islands can have come to the conclusion that he was authorized under the above Agreement to permit the killing of 12,071 seals.

Sir George Baden-Powell and Dr. Dawson, the British Commissioners sent to Behring's Sea, in a telegram from the Pribyloff Islands
99 dated the 5th August, reported to your Lordship that this year's catch of seals had already considerably exceeded the number of 7,500, the limit fixed in the Agreement; and, in a despatch of the same date, they stated that at St. Paul they had been informed that the Treasury Agent had been instructed, as far back as the 27th May, to keep the quota of seals taken by the Company under 7,500, and that *en route* to the islands he was advised by telegram to interpret his instructions in accordance with the United States Proclamation, which embodied the Agreement of the 15th June *verbatim*. This accords entirely with what is stated in the Acting Secretary of State's note to me of the 6th June, which I have quoted above.

The British Behring's Sea Commissioners, in their despatch above referred to, state that the Treasury Agent, Major Williams, arrived at the Pribyloff Islands on the 10th June, and that, on the 20th June, the quota of 7,500 seals having been killed, he stopped all further killing for the Company.

Up to the 20th June, therefore, the Treasury Agent entertained no doubt as to the limit of seals to be killed, and as to his instructions and his duties under the Agreement. It was only when a copy of the President's Proclamation arrived at the islands on the 2nd July that he entertained doubts as to whether he ought not to allow 7,500 seals to be killed from and after the 15th June, the date of the signature of the Agreement, ignoring all the killing of seals which had taken place prior and up to that date. On the 28th July he imparted his doubts to

the British Commissioners, who replied, on the 30th, in writing, that, in their opinion, the intention of the two Governments, as conveyed by Article 2 of the *modus vivendi*, was that, on the part of the United States Government, the stipulation would be strictly observed to limit the catch this season to 7,500 seals, and to stop the killing when that number had been taken. A copy of that letter is inclosed in the despatch of the British Commissioners.

Nevertheless, Major Williams read the Agreement otherwise, although it in no way conflicted with his previous instructions, but, on the contrary, entirely confirmed them.

The consequence of this proceeding on his part is given in detail in the reply of the United States Government to the complaint of Her Majesty's Government.

The numbers of seals killed are as follows:

From 1st May to 10th June	1,651
From 11th to 15th June	2,920
From 15th June to 2nd July	4,471
From 2nd July to 10th August	1,796
Permission given to kill in addition	1,233
Total	12,071

The United States Government do not in terms deny that there has been a violation of the Agreement. They content themselves with transmitting the explanations of the Treasury Agent, and expressing the hope that they will convince Her Majesty's Government that there has been no disposition on his part to violate the stipulations of the Agreement.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 147.]

Sir J. Pauncefote to Mr. Blaine.

NEWPORT, R. I., *August 26, 1891.*

SIR: In accordance with instructions which I have received from the Marquis of Salisbury, I have the honour to inform you that the British Behring's Sea Commissioners have reported, in a communication dated from the seal islands on the 5th August, that they find that this year's catch of seals already materially exceeds 7,500, and that the United States Agent permits the killing of seals to continue, assuming that the limitation agreed upon commences from the date of the signature of the *modus vivendi*.

In bringing this information to your notice, I am at the same time instructed to express the conviction of Her Majesty's Government that the President will not countenance any evasion of the true spirit of the Agreement, and that he will take whatever measures appear to him to be necessary to insure its strict observance.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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100 [Inclosure 2 in No. 147.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, October 10, 1891.*

SIR: It is a source of regret that an answer has been so long delayed to your note of the 26th August last, relating to the communication of the British Behring's Sea Commissioners as to the alleged killing of seals on the seal islands in excess of the number fixed by the Agreement of the 15th June last. This delay has been occasioned by the necessity of receiving from the United States Agent in charge of the islands a full Report on the subject.

The Agent reports that he reached the islands on the 10th day of June last; that from the 1st January to the 1st May, 1891, no seals were killed on the islands; and that from the 1st May to the 10th June, the date of the Agent's arrival, there were killed by the natives for food 1,651 seals. On the morning of the 11th June the Agent gave permission to the lessees to commence killing under the Contract with the Government of the United States, and he states that, from the 11th to the 15th June, 2,920 seals were killed; and that, from the 15th June to the 2nd July, the date of the arrival of the steamer "Corwin," bringing the Proclamation of the President of the United States, containing the notice and text of the *modus vivendi*, there were killed 4,471 seals. From the 2nd July to the 10th August there were killed, for the use of the natives as food, 1,796 seals; and, on leaving the islands, the Agent gave instructions to limit the number to be killed by the natives for food up to the 1st May, 1892, to 1,233.

The instructions of the Secretary of the Treasury to the Agent, received by the steamer "Corwin," were that, if in any way his previous instructions were inconsistent with the President's Proclamation and the Agreement embraced in it, he should be governed by the latter. The Agent reports that, after careful consideration of the text of the Agreement, he decided that the seals killed since the 15th June, the date when that instrument was signed, should be deducted from the 7,500 named in Article 2, thus leaving 3,029 seals to be taken "for the subsistence and care of the natives" from the 2nd July, 1891, to the 1st May, 1892. He says that, in his desire to carry out with absolute correctness the *modus vivendi*, he consulted the two United States Commissioners, Messrs. Mendenhall and Merriam, the Commanders of the United States vessels "Mohican," "Thetis," and "Corwin," the United States Special Agent, and the Special Inspector, and that they all concurred in his interpretation of paragraph 2 of the Agreement: that seals killed prior to the 15th June did not form part of the 7,500 named in the *modus vivendi*. He further says that, in his first meeting with the British Commissioners, Sir George Baden-Powell and Dr. G. M. Dawson, on the 28th July, he submitted the same question to them. Their reply was that it was the understanding of the British Government that only 7,500 seals should be taken during the season, but on examining the text of the Agreement, they admitted that the Agent's interpretation of it was correct. This statement as to the views of the British Commissioners is confirmed by the Report of Professor Mendenhall.

The Agent claims that his action is not only strictly in accord with the language of the Agreement, but with the true intent and spirit of the same, as he understood that intent and spirit in the light of all the facts in his possession. He understood that the object of the Agreement in allowing 7,500 seals to be killed was for the subsistence and care of the natives." The 1,651 seals killed by the natives for food from the 1st May to the 10th June were almost immediately eaten by them, as is their custom after the scanty supply of meat during the winter and spring months, and no part of these seals was salted or preserved for future use. During the killing season by the lessees, under their quota for commercial purposes, the natives are kept very busy, and have no time to prepare meat for future use, and only so much is used for food as is cut off for present use; so that the seals killed between the 10th June, when the season commenced, and the 2nd July, when the notice of the *modus vivendi* was received, were not available for the future subsistence of the natives. As stated, there only remained 3,029 seals to be taken for their subsistence from the 2nd July, 1891, to the 1st May, 1892. The Agent cites the fact that, from the close of the commercial killing season of 1890 on the 20th July, there were killed by the natives for food up to the 31st December, 1890, 6,218 seals, including 3,468 pup seals, the further killing of the latter being now prohibited. It was plain to the Agent that, under the construction which he had placed upon the *modus vivendi*, the supply of meat for the natives during the coming winter would be entirely
101 inadequate, and before his departure from the islands he called upon the lessees to bring in a sufficient supply of salt beef to carry the natives through the winter and up to the 1st May, 1892.

The Agent had no means of determining the scope and meaning of the phrase of the British Commissioners as used in your note, "this year's catch," or "the catch of this season," as used in their communication to him dated the 30th July, except by the interpretation to be given to the text of the *modus vivendi*, as contained in paragraphs 1 and 2. The "same period," found in paragraph 2, he understood to refer to the period within which the British Government undertook to prohibit seal-killing in Behring's Sea. The British Commissioners informed the Agent that, as to the British Government, this period did not begin until a reasonable time after the 15th June (the date of signing), sufficient for the naval vessels to reach the sea. The Agent interpreted the paragraphs cited as mutually binding, and he could not assume that it would be claimed that their provisions were to take effect on one date in the interest of the British sealers, and on another in the interest of the United States.

I have thus taken pains to communicate to you in some detail the action of the Agent of the United States on the subject complained of by the British Commissioners, and I hope what has been set forth will convince your Government that there has been no disposition on the part of the Agent to evade or violate the stipulations of the Agreement of the 15th June last.

I have, &c.

(Signed) WILLIAM F. WHARTON,
Acting Secretary.

No. 148.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 22.)

WASHINGTON, *October 13, 1891.*

MY LORD: With reference to my telegram of yesterday, I have the honour to inclose copy of a semi-official note which I have received from the Acting Secretary of State pressing for a reply to his note of the 23rd July last, which contained the form of clause proposed by the United States Government for the settlement of claims for damages to be inserted in the Behring's Sea Arbitration Agreement, together with a copy of the semi-official note which I have sent him in reply.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 148.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, October 12, 1891.*

MY DEAR SIR JULIAN: On the 23rd July last I wrote you a note presenting a proposal for the settlement of claims for damages, which was to form part of the proposed Agreement of Arbitration of certain matters affecting the seal fisheries in Behring's Sea.

On the 22nd August I wrote requesting you to be kind enough to inform me when an answer to my note might be expected. On the 24th August you wrote me acknowledging the receipt of mine of the 22nd August, and expressing the hope that you would be in a position to reply to my note of the 23rd July in the course of the next few days. More than ten weeks have elapsed since sending you my note of the 23rd July, and no answer to it has yet been received.

The President is very desirous to have a conclusion reached in the negotiations concerning the Behring's Sea matters, and has requested me to draw your attention again to the importance of an early reply to his latest proposal.

The period fixed by the agreement for a *modus vivendi* expires on the 2nd May next. The time within which it is hoped to obtain a final settlement of the questions in dispute between the two Governments is fast going by, and the President feels that if any effective action is to be had in the matter before the next fishing season opens, all the terms of the Agreement of Arbitration should be disposed of immediately.

Very truly yours,

(Signed) WILLIAM F. WHARTON.

[Inclosure 2 in No. 148.]

Sir J. Pauncefote to Mr. Wharton.

WASHINGTON, *October 13, 1891.*

MY DEAR MR. WHARTON: On receipt of your letter of yesterday asking for a reply to your note of the 23rd July last, containing a form of clause proposed by your Government to be inserted in the Behring's Sea Arbitration Agreement, to settle the long-debated question of damages, I telegraphed to Lord Salisbury for further instructions, informing him of the substance of your communication.

I understand that his Lordship is expected in London this week from the south of Europe, and I shall probably, therefore, receive an answer to my telegram before many days.

Although, as you observe, more than ten weeks have elapsed since the date of your official note above referred to, I need hardly remind you that the intervening time has been taken up with informal discussions between us with a view to finding a solution of the difficulty without unduly lengthening the official correspondence. This informal interchange of views, which, no doubt, had the approval of the President, has not been without advantage in throwing light on the troublesome question which still impedes the conclusion of the Agreement, and I now hope I may soon be in a position to resume the official correspondence.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 149.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 23.)

[Telegraphic.]

WASHINGTON, *October 23, 1891.*

With reference to your Lordship's telegram of the 20th instant, formal notes have been exchanged between Mr. Wharton and myself recording the adoption of the seven Articles of the Behring's Sea Arbitration Agreement as formally settled by both Governments.

Copies are sent by post.

No. 150.

The Marquis of Salisbury to Mr. Howard.

FOREIGN OFFICE, *October 23, 1891.*

SIR: With reference to your despatch of the 29th July last, I transmit herewith a copy of a despatch from the Behring's Sea Commissioners recording their high appreciation of the manner in which they were received by the Russian authorities at the Commander Islands and Petropaulowski.* I have to request you to convey to the Russian Government the thanks of Her Majesty's Government for the courteous reception accorded to the British Commissioners by the Russian officials.

I am, &c. (Signed) SALISBURY.

No. 151.

Colonial Office to Foreign Office.—(Received October 27.)

DOWNING STREET, *October 26, 1891.*

SIR: With reference to previous correspondence, I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, inclosing a Memorial to Lord Salisbury from the British Columbian Sealers' Association.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

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*No. 140.

103 [Inclosure 1 in No. 151.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, October 3, 1891.*

MY LORD: I have the honour to transmit to your Lordship herewith a copy of an approved Minute of the Privy Council of Canada, submitting a Memorial addressed to Her Majesty's Principal Secretary of State for Foreign Affairs by the Sealers' Association of Victoria with reference to the loss occasioned to Canadian vessels by reason of the enforcement of the *modus vivendi*, together with copy of the reply of the Minister of Marine and Fisheries to the representations of the Association.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2 in No. 151.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 29th September, 1891.

On a Report, dated the 19th September, 1891, from the Minister of Marine and Fisheries, stating that he has received the appended letter from Mr. Richard Hall, Secretary of Victoria Sealers' Association, covering a Memorial signed by the owners, managing owners, and agents of the Canadian sealing fleet, addressed to the Right Honourable Her Majesty's Principal Secretary of State for Foreign Affairs.

This Memorial represents the position of the Canadian sealing fleet as affected by the *modus vivendi* in Behring's Sea during the present season.

The Minister also submits a copy of his answer to the Secretary of the Association thereto.

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward copies hereof, together with the Memorial in question, to the Right Honourable the Principal Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

APPENDIX (A).

OFFICE OF THE VICTORIA SEALERS' ASSOCIATION,
Victoria, B. C., September 1, 1891.

SIR: On behalf of the Sealers' Association of Victoria I do myself the honour to transmit herewith a Memorial addressed by them to the Imperial Government, and most respectfully to request that you will be pleased to forward it in the proper course, accompanied by such representations on the part of the Dominion Government as you may deem proper.

2. Although it may appear at first sight that a large sum would be involved in granting our prayer—some of the vessels having been ordered home before they entered Behring's Sea, and consequently without any catch at all, and others very shortly after entering, when their catch was small—some are now returning with full average catches, whose claim will consequently be *nil*, and it is to be presumed that many others may follow, equally fortunate, so that in all probability the amount required to meet our claims, although to us of very material importance, will to the British Government be comparatively insignificant.

3. We cannot, of course, give a complete list of our exact claims until all our vessels have returned, but will then forward them promptly.

4. Permit me to remind you that in 1885, when the Canadian Government excluded the United States fishermen from participation in Canada fisheries, six months' notice was given, whereas no such courtesy was extended to us.

5. I am further directed to convey to you the expression of our grateful appreciation of the full and energetic manner in which you have hitherto supported our interests, and of our hope that you will feel justified in fully indorsing and urging the prayer of our present Memorial.

6. If you will be so good as to afford us any advice or suggestions which may occur to you as to any further steps which we can take in this matter, we will feel duly grateful.

I have, &c.

(Signed) RICHARD HALL,
Secretary to the Victoria Sealers' Association.

The Hon. the MINISTER OF MARINE AND FISHERIES.

Memorial.

To the Most Noble the Marquis of Salisbury, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, Premier.

The humble Memorial of the undersigned British Columbia Ship-owners interested in Fur-seal hunting,

Most respectfully sheweth:

That your memorialists desire to approach your Lordship with assurances of their loyalty to the British Crown, their attachment to the institutions of their country, and their personal respect for your Lordship.

That, cherishing such sentiments, your memorialists have viewed with surprise and pain the recent action of the Imperial Government in dealing with their interests.

That an Act prohibiting fur-seal hunting in Behring's Sea has been passed through Parliament, and has received the Royal Assent with unusual haste, whose effect has been to protect a large politico-commercial monopoly, belonging to a foreign State, at the expense and to the serious detriment of British interests.

That your memorialists regret that you can have no confidence in the sincerity of the United States Government in desiring the protection of fur-seals, inasmuch as they have never made any effort to preserve animal life from the licence of their own citizens.

That at the present time they are conniving at the extermination of the whale and the sea-otter, Canadian fishermen having no part or share in those industries, and that your memorialists confidently believe that, had not Canadians shared in the fur-seal fishery, no complaint of extermination would ever have been heard of by the public.

That such Government, judged by its actions, has established little claim to any generosity or forbearance on the part of the British, but more especially of the Canadian people.

That the allegation publicly made by a prominent statesman that the Victoria, British Columbia, fur-seal industry is largely conducted by American capital and enterprise, is, so far as your memorialists are concerned, absolutely erroneous and without foundation.

That your memorialists have seen, with humiliation and sorrow, the flag of their country, to which they have ever been accustomed to look for protection, perverted on the behest of a foreign Power from its legitimate functions into an instrument of oppression, and your memorialists have been driven from their lawful avocations on the high seas with the loss of the entire season.

That in the year 1886 vessels, the property of your memorialists, were seized by the American cruizers on the high seas, upwards of 60 miles distant from land, their property confiscated and their crews imprisoned, the hardships and cruelties (unworthy of a civilized nation) suffered by them resulting in the death, during his custody, of the captain of one of the vessels, and that to this day the losses and indignities endured by your memorialists remain unredressed.

That the alleged diminution in the number of seals is, if true (although every evidence proves the contrary), far more likely to have resulted from the operations of the lessees of the Pribyloff Islands in slaughtering them by hundreds of thousands at their breeding-places, than from the comparatively insignificant operations of your memorialists, scattered over a vast area of the Pacific Ocean.

That under all the circumstances of the case, your memorialists having been deprived of the profits of their whole season's business, for which they were permitted to clear at British Custom-houses, most earnestly appeal to your Lordship's sense of right and justice to grant them compensation for their losses.

That it is the custom of the trade to pay hunters engaged in it at a rate of so much per skin for all skins taken, and sailors at so much per month, the voyage generally lasting until about the end of September.

That many of your memorialists' vessels have been in port for weeks, their voyage ended, and crews paid off at rates wholly inadequate to their winter maintenance, and in many cases insufficient to pay their passages back to Eastern Canada, where their homes are.

That in asking compensation your memorialists have in view the losses of their men as well as their own, and if awarded compensation on the basis hereinafter suggested, will undertake to pay all hunters and sailors employed by them at such rates as they would have been entitled to receive had the usual average number of seals been taken in Behring's Sea, and the voyage been completed at the end of September.

That your memorialists respectfully suggest, as the only equitable method of computing such compensation, that they be allowed the value at current prices of such number of seal-skins as they would presumably have killed in Behring's Sea had

their voyage not been arrested, estimated at the average take per boat or canoe carried for the last three years (exclusive of such vessels as were seized or driven out of Behring's Sea in 1889).

That such principle, if accepted by the Imperial Government, will save the expense of further inquiry, and, by obviating a delay in payment, will confer a boon upon your memorialists.

Your memorialists, therefore, humbly pray that your Lordship will be pleased to take such prompt action for their relief as in your wisdom you may deem right and just.

And your memorialists, as in duty bound, will ever pray.

(Signed) E. B. MARVIN AND CO.
(And 17 others.)

VANCOUVER, BRITISH COLUMBIA, *September 1, 1891.*

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105 APPENDIX (C).

OTTAWA, *September 19, 1891.*

SIR: I have the honour to acknowledge the receipt of your letter of the 1st instant, forwarding, on behalf of the Sealers' Association of Victoria, British Columbia, a Memorial addressed to the Right Honourable Her Majesty's Principal Secretary of State for Foreign Affairs, signed by the owners, managing owners, and agents of the Canadian sealing fleet.

I have brought the Memorial to the attention of his Excellency the Governor-General, with the view of communicating the same to Her Majesty's Government. I may add that any further representations which it may be deemed necessary to make on any branch of the question will at all times receive my prompt attention.

I may state, for the information of the Association, that, in the negotiations leading up to the present *modus vivendi*, the Government of Canada has not neglected to represent the great interest of Canadians engaged in the fur-seal industry.

Your Association is, I take it, already aware of the views of Her Majesty's Government on the question of compensation, since they were communicated through another channel, in answer to former protests.

I will, however, repeat that Her Majesty's Government has intimated that, while they incline to the belief that the closure of Behring's Sea to all sealing operations both on land and at sea will so enhance the value of the catch that the prices realized will compensate the sealers for their loss of the Behring's Sea catch, they will be prepared to consider claims to recompense where it can be shown that actual loss has accrued by reason of the legislation under review.

Formal protests on behalf of some eight or ten returned vessels have already reached me, and have been brought to the attention of Her Majesty's Government.

I observe that your letter intimates that in some instances no claims can lie, as the vessels returned with full catches.

I have noted your desire that I should advise your Association touching any further steps that might be taken.

I have, &c.

(Signed) CHARLES H. TUPPER.

RICHARD HALL, Esq.,
Secretary, Victoria Sealers' Association, Victoria.

No. 152.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 27.)

WASHINGTON, *October 19, 1891.*

MY LORD: I have the honour to transmit a copy of a note in relation to the compensation clause of the Behring's Sea Arbitration Agreement which, in accordance with the instructions contained in your Lordship's telegram of the 15th instant, I addressed to the Acting Secretary of State.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

instructed to stop the killing when 7,500 have been taken, and to await the arrival of further orders; though, ordinarily, the taking of seals on the islands does not begin until about the 1st July. The enforcement of an agreed limitation being so fully in the control of the United States, the President is sure that Lord Salisbury will not question the absolute good faith of this Government in observing its stipulation to limit the catch to 7,500."

The two Governments therefore agreed that, up to May 1892, only 7,500 seals should be killed for the support of the 300 people on the Pribyloff Islands, and that all "commercial killing" (to use the language of Mr. Blaine) should be stopped. It is important to note that the agents of the United States Treasury Department, who had been dispatched to the seal islands long before the signature of the Agreement, had been instructed as far back as the 27th May "to stop the killing when 7,500 had been taken."

The following are the Articles of the Agreement relating to the restriction on the killing of seals:

1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

2. The United States Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States citizens and vessels.

It is difficult to understand by what process of reasoning the United States Treasury Agent at the seal islands can have come to the conclusion that he was authorized under the above Agreement to permit the killing of 12,071 seals.

Sir George Baden-Powell and Dr. Dawson, the British Commissioners sent to Behring's Sea, in a telegram from the Pribyloff Islands
99 dated the 5th August, reported to your Lordship that this year's catch of seals had already considerably exceeded the number of 7,500, the limit fixed in the Agreement; and, in a despatch of the same date, they stated that at St. Paul they had been informed that the Treasury Agent had been instructed, as far back as the 27th May, to keep the quota of seals taken by the Company under 7,500, and that *en route* to the islands he was advised by telegram to interpret his instructions in accordance with the United States Proclamation, which embodied the Agreement of the 15th June *verbatim*. This accords entirely with what is stated in the Acting Secretary of State's note to me of the 6th June, which I have quoted above.

The British Behring's Sea Commissioners, in their despatch above referred to, state that the Treasury Agent, Major Williams, arrived at the Pribyloff Islands on the 10th June, and that, on the 20th June, the quota of 7,500 seals having been killed, he stopped all further killing for the Company.

Up to the 20th June, therefore, the Treasury Agent entertained no doubt as to the limit of seals to be killed, and as to his instructions and his duties under the Agreement. It was only when a copy of the President's Proclamation arrived at the islands on the 2nd July that he entertained doubts as to whether he ought not to allow 7,500 seals to be killed from and after the 15th June, the date of the signature of the Agreement, ignoring all the killing of seals which had taken place prior and up to that date. On the 28th July he imparted his doubts to

the British Commissioners, who replied, on the 30th, in writing, that, in their opinion, the intention of the two Governments, as conveyed by Article 2 of the *modus vivendi*, was that, on the part of the United States Government, the stipulation would be strictly observed to limit the catch this season to 7,500 seals, and to stop the killing when that number had been taken. A copy of that letter is inclosed in the despatch of the British Commissioners.

Nevertheless, Major Williams read the Agreement otherwise, although it in no way conflicted with his previous instructions, but, on the contrary, entirely confirmed them.

The consequence of this proceeding on his part is given in detail in the reply of the United States Government to the complaint of Her Majesty's Government.

The numbers of seals killed are as follows:

From 1st May to 10th June	1,651
From 11th to 15th June	2,920
From 15th June to 2nd July	4,471
From 2nd July to 10th August	1,796
Permission given to kill in addition	1,233
Total	12,071

The United States Government do not in terms deny that there has been a violation of the Agreement. They content themselves with transmitting the explanations of the Treasury Agent, and expressing the hope that they will convince Her Majesty's Government that there has been no disposition on his part to violate the stipulations of the Agreement.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 147.]

Sir J. Pauncefote to Mr. Blaine.

NEWPORT, R. I., *August 26, 1891.*

SIR: In accordance with instructions which I have received from the Marquis of Salisbury, I have the honour to inform you that the British Behring's Sea Commissioners have reported, in a communication dated from the seal islands on the 5th August, that they find that this year's catch of seals already materially exceeds 7,500, and that the United States Agent permits the killing of seals to continue, assuming that the limitation agreed upon commences from the date of the signature of the *modus vivendi*.

In bringing this information to your notice, I am at the same time instructed to express the conviction of Her Majesty's Government that the President will not countenance any evasion of the true spirit of the Agreement, and that he will take whatever measures appear to him to be necessary to insure its strict observance.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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100 [Inclosure 2 in No. 147.]

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, October 10, 1891.*

SIR: It is a source of regret that an answer has been so long delayed to your note of the 26th August last, relating to the communication of the British Behring's Sea Commissioners as to the alleged killing of seals on the seal islands in excess of the number fixed by the Agreement of the 15th June last. This delay has been occasioned by the necessity of receiving from the United States Agent in charge of the islands a full Report on the subject.

den, France, or Switzerland. In his opinion, the appointment of English and American jurists as Arbitrators was advisable on account of the community, not only of language, but of the principles of law, of Great Britain and the United States. He asked me to inform your Lordship of this suggestion, and to ascertain the views taken of it by Her Majesty's Government.

No. 157.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received November 2.)

VANCOUVER, *October 14, 1891.*

MY LORD: In continuation of our despatch of the 17th September last, we have the honour to report that, after leaving Behring's Sea, we visited Kodiak Island, Sitka, and Shakan, making inquiries of both the natives and White residents at those places.

2. Her Majesty's ship "Nymphe," on her way to Esquimalt, following a different course, met and assisted us at Sitka.

3. Continuing our cruize of investigation, we called at the following places on the coast of British Columbia, viz.: Fort Simpson, Metlakatla, Port Essington, Masset (Queen Charlotte Islands), Bella Bella, Nawithi, Clayoquot Sound, and Barclay Sound, where, by personal inquiries, we amplified the written statements which, in compliance with our previous request, had been forwarded to us by the various Indian agents on the coast.

4. We have thus been enabled to acquire a direct knowledge of the fur-sealing industry, both past and present, as it affects the Indians of South east Alaska and British Columbia.

5. We also visited the Indian Settlement at Neah Bay, on the American shore of the Straits of Fuca, where we obtained valuable information.

6. Reaching Esquimalt on the 8th October, we reported our arrival to the Commander-in-chief on the Pacific Station.

7. While at Victoria and Vancouver deputations from the Sealers' Associations met us, and from them and from others we made final inquiries in order to obtain authoritatively the views of all persons connected with the fur-seal fishery on the facts of seal life, and on the protective measures to which they would agree.

108 8. We also paid a special visit to the American port of Seattle, the chief centre of the American pelagic sealing industry in Puget Sound.

9. Such is the record of our local inquiries in the North Pacific Ocean, in which we availed ourselves of every known source of information likely to assist us in arriving at sound conclusions.

10. We now proceed direct to Ottawa, completing our Report to Her Majesty, and awaiting further instructions.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 158.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received November 2.)

PORT WILLIAM, ONTARIO, *October 19, 1891.*

MY LORD: With reference to your Lordship's despatch of the 12th September last, respecting the limitation of the number of seals to be killed on the Pribyloff Islands this year, we have the honour to inform your Lordship that on the 18th instant we received a private letter from Sir Julian Pauncefote informing us that "The United States Government have replied to our" (Her Majesty's Government's) "complaint of the violation of the *modus vivendi*. They admit that Major Williams allowed no less than 12,071 seals to be killed. They do not say that they approve his action, but they merely give his explanations, and hope Her Majesty's Government will be satisfied that he had no disposition to violate the Agreement."

Major Williams informed us on the islands early in August that nearly 9,000 seals had been killed by that date, and that the killing would be stopped until the "stagey" season was over, but resumed in October.

We therefore assume that 3,000 of the 12,071 are to be killed this autumn, and have this day addresssed to your Lordship a cypher telegram of which the following is a paraphrase:

OCTOBER 19, 1891.

Sir Julian Pauncefote informs us that the United States Government admit that permission has been given to kill 12,000 seals on the seal islands this year. We understand that about 3,000 of these remain to be killed this autumn; wherefore we hope that the United States Government have agreed to send instructions to the islands to stop killing at once until May 1892.—BADEN-POWELL.

We noticed in the newspapers a report that the United States revenue-cruizer "Rush," on arrival at San Francisco, was unexpectedly ordered to return to the Pribyloff Islands in the early part of October. The United States Government thus had an opportunity, of which they possibly availed themselves, of sending to the seal islands the necessary orders to stop all further killing this year. We can hardly suppose that they would neglect so good an occasion, at all events to mitigate the effects of the misunderstanding of clause 2 of the *modus vivendi*, but we had ourselves no information as to any such action having been taken by the United States Government, and as Sir Julian Pauncefote did not mention the point we felt it our duty to at once communicate our views by telegraph to your Lordship.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 159.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received November 2.)

OTTAWA, *October 21, 1891.*

MY LORD: We have the honour to transmit, for your Lordship's consideration, a copy of a Memorial which was handed to us on the 14th instant by the Sealers' Association of Vancouver, stating their special

claims for compensation on account of the Proclamation issued for this year against the taking of fur-seal in Behring's Sea.

109 We informed the Association that the subject was one outside the precise scope of our Commission, but that we would have pleasure in laying the Memorial before your Lordship.

We have also, in compliance with the request of the Sealers' Association, transmitted a copy of the Memorial to the Governor-General of Canada.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

[Inclosure in No. 159.]

The Vancouver Sealers' Association to the Behring's Sea Commissioners.

[NO DATE.]

GENTLEMEN: We, the undersigned owners of the sealing fleet of the city of Vancouver, have the honour to make the following representations:

That while all owners of sealing-vessels in the province must have suffered from the operation of the *modus vivendi*, we, the owners of the sealing fleet belonging to the city of Vancouver, have probably felt the hardship the most severely from the reason that the industry is entirely a new one, the whole fleet of vessels having been built within the last few months, and equipped by us for the sole purpose of proceeding to Behring's Sea in the past season.

That at the commencement and during the construction of these vessels we had no reason to suppose that any restriction would be placed upon their movements.

That having completed them, we in good faith went to the great expense of fitting them out for the fisheries, and in fact had no intention [? intimation] of the effects of the *modus vivendi* until after their arrival in Behring's Sea.

That the industry being a new one with us, and not having the profitable results of previous years as an offset, we, as before stated, are the greatest sufferers by the action of the Government in this respect.

We would also call your attention to the fact that the hunters employed in the above-named vessels were engaged for the voyage, and received no other recompense than an amount per skin saved, as agreed upon, and consequently they have made a claim upon the owners for compensation based upon earnings of former years.

We have not thought it necessary to burden you with further details of our case, as you must be already fully cognizant of it, but shall be glad at any time to supply any information in our power.

We have, &c.

(Signed) D. OPPENHEIMER, *President.*
(And others.)

No. 160.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 2.)

WASHINGTON, *October 23, 1891.*

MY LORD: With reference to my telegram of the 19th instant, I have the honour to inclose copies of notes which I have exchanged with the Acting Secretary of State, recording the adoption by both Governments of the seven Articles of the Behring's Sea Arbitration Agreement as finally settled.

Mr. Wharton informed me yesterday that the President is of opinion that no formal instrument should be signed until all the other provisions relating to the number and choice of Arbitrators and the time and place of their sitting, &c., have been settled, so that the whole may be embodied in a Convention to be laid before Congress.

I suggested that, in the meanwhile, copies of the seven Articles and of the Joint Commission Article, which have been agreed to, should be signed by him and me on behalf of our respective Governments.

He said that he would submit that course to the President.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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110 [Inclosure 1 in No. 160].

Mr. Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, October 22, 1891.*

SIR: I have laid before the President your note of the 17th instant, and he directs me to express his regret that your Government has not seen fit to accept the modified form of the 7th clause which was proposed in my note of the 23rd July last.

This modification of the clause in question was made with a view to obviate the objection urged in your note of the 13th July, and the President is unable to see how it can be held to imply an admission on the part of Great Britain "of a doctrine respecting the liability of Governments for the acts of their nationals or other persons sailing under their flag on the high seas for which there is no warrant in international law."

The proposition was expressly framed, so as to submit to the Arbitrators the question of the liability of each Government for specified acts complained of by the other, and its language no more implies an admission of liability on the part of one Government than on the part of the other. It is precisely because the two Governments cannot agree as to the question of liability that arbitration becomes necessary. The facts upon which the respective claims for compensation rest are not seriously in dispute; to wit, the seizure of vessels and the killing of seals in Behring's Sea, and it would probably not require the aid of Arbitrators for their ascertainment. But it is the more important and difficult question of liability respecting which the two Governments find it necessary to invoke the interposition of impartial arbitration. It was not the intention of this Government to require of Great Britain any admission of liability for the acts complained of, but it has felt that if the arbitration was to result in a full settlement of the differences between the two Governments, the question of respective liability for these acts should go to the Arbitrators for decision.

In the informal Conferences which have taken place between us since the date of my note of the 23rd July, you will remember that I have solicited from you any suggestions in support of the objection that the modified clause assumes a liability on the part of your Government, having in view on my part an amendment of the phraseology to overcome the objection, and I have to express disappointment that no such suggestions were found in your note of the 17th instant. It was for this reason, and in the hope that the clause might be made acceptable to your Government, that, after the receipt of your note, I submitted to you informally the following amendment to be added to the 7th clause, as proposed in my note of the 23rd July:

"The above provision for the submission to the Arbitrators by the United States of claims for compensation by reason of the killing of seals by persons acting under the protection of the British flag shall not be considered as implying any admission on the part of the Government of Great Britain of its liability for the acts of its nationals or other persons sailing under its flag."

We have now been informed by you that your Government is unwilling to accept the clause even with this addition by way of amendment.

When in your note of the 21st February last you communicated the desire of Lord Salisbury for a "reference to the Arbitrator of the question of damages due to persons who have been injured, in case it should be determined by him that the action of the United States in seizing British vessels had been without warrant in international law," the President cheerfully accepted the suggestion, and, coupling with it the claim of damages preferred by the United States, proposed to submit both questions, as presented by the respective Governments, to arbitration, thus making a complete and final settlement of all differences between the two Governments connected with the seal fisheries. To withdraw this comprehensive submission of specified claims, and substitute for it a mere reference to the Arbitrator of questions of facts touching the same claims, which are not to be held binding upon either Government, as you propose, is, in the opinion of the President, an imperfect, and, he fears, may

prove, an ineffectual disposition of the question of claims. But having failed in his efforts by modification and amendment to secure the acceptance by your Government of the clause for a full adjustment of these claims, and heartily participating in the desire expressed in your note for a prompt solution of the difficulty which impedes the conclusion of the arbitration, he has thought it best to terminate the discussion by proposing to you the following, to constitute the text of clause 7:

"The respective Governments having found themselves unable to agree upon a reference which shall include the question of the liability of each for the
111 injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, and being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

I have, &c.

(Signed) W. F. WHARTON.

[Inclosure 2 in No. 160.]

Sir J. Pauncefote to Mr. Wharton.

WASHINGTON, *October 23, 1891.*

SIR: I have the honour to acknowledge the receipt of your note of yesterday's date in reply to mine of the 17th instant, in which I stated the grounds on which Her Majesty's Government found themselves unable to accept the form of clause relating to damages, proposed in your note of the 23rd July last for insertion in the Behring's Sea Arbitration Agreement.

In that note, I informed you that I had been authorized by the Marquis of Salisbury, with a view to a prompt settlement of the difficulty, to make the following suggestion, namely, that "the six Articles of the Arbitration Agreement already accepted by both Governments should be signed now, and also an Article providing for the reference to the Arbitrators of any question of fact which either Government may desire to submit to them regarding the claims for compensation to which it considers itself to be entitled. The application of international law to those facts would be left as a matter for future negotiation after they shall have been ascertained, and might be subsequently referred to the Arbitrators in whole or in part if the two Governments should agree to do so."

In your note under acknowledgment, in which you reply to the above suggestion, you advert to the discussions and informal conferences, which have taken place on the subject of the clause dealing with the question of damages, and you state that the President is unable to see how the seventh clause, proposed in your note of the 23rd July last, can be held to imply an admission on the part of Great Britain "of a doctrine respecting the liability of Governments for the acts of their nationals, or other persons sailing under their flag on the high seas, for which there is no warrant in international law." Those are, no doubt, the terms in which I stated generally the objection of Her Majesty's Government to the form of clause in question. But I am relieved from explaining their objection in greater detail by the proposal of the President, with which your note concludes, to substitute a new clause, which substantially carries out Lord Salisbury's suggestion.

You state that the President has thought it best to terminate the discussion by proposing to me the following to constitute the text of clause 7:

"The respective Governments, having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, and being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims, and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation."

I am glad to be able to announce to you that I have received by telegraph the authority of Lord Salisbury to accept the above clause on behalf of Her Majesty's Government, and, in doing so, I beg to express my gratification at this satisfactory solution of the difficulty which has delayed the conclusion of the Arbitration Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

112

No. 161.

Foreign Office to Colonial Office.

FOREIGN OFFICE, *November 2, 1891.*

SIR: I am directed by the Marquis of Salisbury to transmit, to be laid before Secretary Lord Knutsford, a paraphrase of a telegram from Her Majesty's Minister at Washington,* reporting an interview with Mr. Blaine respecting the Behring's Sea arbitration.

His Lordship will be glad to be favoured with Lord Knutsford's opinion on Mr. Blaine's suggestion that British and United States jurists of repute, two on each side, should be appointed as Arbitrators, and that an Umpire should be selected by one of the foreign Powers named.

Lord Salisbury is of opinion that the proposal to appoint jurists as Arbitrators might be accepted by Her Majesty's Government, and he is disposed to think that the choice of the foreign Power with whom the selection of the Umpire is to rest should be decided by lot.

I am, &c.

(Signed) P. CURRIE.

No. 162.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *November 6, 1891.*

SIR: I have received your despatch of the 23rd ultimo, inclosing copies of the notes which you have exchanged with the Acting Secretary of State, recording the adoption by the British and American Governments of the seven Articles of the Behring's Sea Arbitration Agreement as finally settled.

In reply, I have to state that Her Majesty's Government approves the terms of your note, as well as the suggestion made by you to Mr. Wharton respecting the signature of the Articles as reported in the last paragraph of your despatch.

I am, &c.

(Signed) SALISBURY.

No. 163.

The Marquis of Salisbury to the Behring's Sea Commissioners.

FOREIGN OFFICE, *November 6, 1891.*

GENTLEMEN: I have received your despatch of the 21st ultimo, forwarding a copy of a Memorial from the Sealers' Association of Vancouver, in which the latter state their special claims for compensation on account of the Proclamation issued against the taking of fur-seal in Behring's Sea.

The answer which you returned to the Association, as reported in the same despatch, is approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

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* No. 156.

No. 164.

The Marquis of Salisbury to the Behring's Sea Commissioners.

FOREIGN OFFICE, *November 6, 1891.*

GENTLEMEN: I have received your despatch of the 14th ultimo reporting your movements, in the prosecution of the inquiry with which you have been charged, between the 18th September and the 14th October.

I have to state that your proceedings are approved by Her Majesty's Government.

I am, &c. (Signed) SALISBURY.

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113 No. 165.

Admiralty to Foreign Office.—(Received November 12.)

ADMIRALTY, *November 10, 1891.*

SIR: I am commanded by the Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copy of the remarks of the Commander-in-chief on the Pacific Station, dated the 1st October, in forwarding the Report of Her Majesty's ships in the Behring's Sea in 1891, received from Commander Turner, of Her Majesty's ship "Nymphe."

My Lords propose, with the concurrence of Lord Salisbury, to approve of the proceedings of Commander Turner, of Her Majesty's ship "Nymphe," Commander Barr, of Her Majesty's ship "Porpoise," and Lieutenant Hadley, of Her Majesty's ship "Pheasant."

I am, &c.

(Signed) EVAN MACGREGOR.

[Inclosure 1 in No. 165.]

Rear-Admiral Hotham to Admiralty.

[General Report of Proceedings of Her Majesty's ships in the Behring's Sea, 1891.]

"WARSPITE," AT ESQUIMALT, *October 17, 1891.*

Forwarded, observing I am glad to be able to bring to their Lordships' notice the good feeling that existed between Her Majesty's ships and those of the United States; also that the Commissioners of Seal Fishery question (Sir G. Baden-Powell, K. C. M. G., M. P., and Professor Dawson, of Canada) have represented to me by letter their appreciation of the aid they received from Commander Burr, of Her Majesty's ship "Porpoise," and Lieutenant-Commander Hadley, Her Majesty's ship "Pheasant," in carrying out their work, under the superintendence of Commander Turner, Senior British Naval Officer.

(Signed) CHAS. F. HOTHAM.

[Inclosure 2 in No. 165.]

Commander Turner to Rear-Admiral Hotham.

"NYMPHE," AT ESQUIMALT, *October 8, 1891.*

SIR: I have the honour to report that on arriving at Esquimalt from a cruize on the 16th June, I found awaiting me telegraphic orders from the Admiralty to proceed with Her Majesty's ship "Pheasant" to the Behring's Sea as soon as possible, and

there co-operate with the United States men-of-war in warning sealing-vessels to leave the Behring's Sea, and in seizing those who might fail to heed the warning.

I received later telegrams, ordering me to charter steam-collier "Costa Rica" to take to the Behring's Sea 2,000 tons of coal for the use of Her Majesty's ships, and also to charter steam-ship "Danube" for the use of Sir George Baden-Powell, K. C. M. G., and Dr. Dawson, Her Majesty's Commissioners.

On the 27th June I proceeded to Iliuliuk Harbour, Ounalaska, after leaving orders for Her Majesty's ship "Pheasant" and steam-ship "Costa Rica" to leave for the same port as soon as they were ready for sea, and on my arrival I found in harbour the British schooner "E. B. Marvin," which had been seized by the revenue-steamer "Rush" for sealing in the Behring's Sea after being warned.

The United States force in the Behring's Sea was United States ships "Mohican," "Alert," "Thetis," and the revenue-steamers "Corwin" and "Rush." United States ship "Marion" did not arrive until the 17th August; steam-ship "Alki" was also chartered to bring up a detachment of marines, and they used her as a receiving-ship for the crews of captured sealers and as an escort for taking schooners, which had been seized, to Sitka.

I took from the "E. B. Marvin" all their guns, ammunition, and seal-skins, and sent her down to Victoria with orders to report herself on arrival to the Collector of Customs.

114 Steam-ship "Costa Rica" arrived at Ounalaska on the 9th, Her Majesty's ship "Pheasant" on the 12th, and Her Majesty's ship "Porpoise" from the China Station on the 27th July.

Before leaving Ounalaska I left orders for Her Majesty's ships "Porpoise" and "Pheasant" to coal immediately on arrival, and cruize on the stations agreed upon (Her Majesty's ship "Nymphe" and United States ship "Alert" on the eastern, and Her Majesty's ship "Pheasant" and United States ship "Mohican" on the western side of the Pribyloff Islands), and seize all vessels which had been previously warned, letting go with a warning those which had not been boarded before.

With my orders, I sent to each ship a letter of warning, to be given to the masters of schooners boarded, a form of certificate to be written in the log or register of each vessel warned, and instructions for the boarding officer, copies of all of which are inclosed herewith.

On the 12th July, after receiving from United States ship "Mohican" a list of all vessels which had been warned, and copies of which I left for Her Majesty's ships "Porpoise" and "Pheasant," I sailed for the Pribyloff Islands, and cruized to the northeast of them, according to arrangement with Commander Cotton, Senior American Naval Officer.

On the 18th July, I anchored off St. Paul's village, and United States ships "Mohican" and "Thetis" arrived the same day, United States ship "Alert" and Her Majesty's ship "Pheasant" arriving on the 19th. United States ship "Mohican" reported 5 vessels warned by herself, 2 by United States ship "Thetis," 6 by United States revenue-steamer "Corwin," and 3 by United States revenue-steamer "Rush," while I warned 1 vessel and Her Majesty's ship "Pheasant" 5.

The Captains of all the men-of-war in port called on the Government and Seal Company's agents at St. Paul's, and visited the rookeries in company with them. It was especially pointed out that the seals were decreasing, as on the largest rookery a great tract of land, which a few years ago had been covered with seals, and the boulders and rocks on which had been worn smooth by them, was now totally deserted, and no increase of seals had been observed on other rookeries to compensate for this deficiency.

On arriving at Ounalaska on the 25th July I found there steam-ship "Danube," with Her Majesty's Commissioners on board, and Her Majesty's ship "Pheasant."

Steam-ship "Danube" sailed for the Pribyloff Islands on the 26th July, and on the 29th July I sent Her Majesty's ship "Pheasant" to meet her there, so that she might place proper boats, &c., at the disposal of Sir George Baden-Powell.

United States ship "Albatross" with the United States Commissioners, Professor Mendenhall and Professor Dall, arrived at Ounalaska on the 25th July, and a few days afterwards proceeded to the Pribyloff Islands.

On the 1st August I ordered steam-ship "Costa Rica" to proceed to Sitka, and from there fetch mails and stores which steam-ship "Queen" was bringing up for Her Majesty's ships in the Behring's Sea.

On the 1st August, after leaving sailing orders for Her Majesty's ship "Porpoise" to proceed to sea on the 7th, cruize around the Pribyloff Islands, and return on the 19th, I left Ounalaska and anchored at St. Paul's on the 8th August, having warned two sealing-schooners during the cruize.

I proceeded from St. Paul's on the 10th August and cruized till the 18th, touching at the Islands of St. Matthew and St. Lawrence, and at the former place I met steam-ship "Danube" in company with Her Majesty's ship "Pheasant."

Her Majesty's ship "Porpoise" arrived at Ounalaska from her cruize on the 19th,

and steam-ship "Costa Rica" with mails from Sitka, and Her Majesty's ship "Pheasant" on the 20th August.

Steam-ship "Danube" arrived on the 21st August, and sailed again for the Island of Attou on the 24th. I ordered Her Majesty's ship "Porpoise" to proceed to the same destination, so that she might render the same help to Her Majesty's Commissioners as Her Majesty's ship "Pheasant" had on their last cruize. I also ordered Her Majesty's ship "Porpoise" to proceed to the China Station as soon as steam-ship "Danube" started to return to Ounalaska.

On the 28th August I sailed from Ounalaska and proceeded to the westward, anchoring again at Ounalaska on the 6th September. During this cruize, a record of all seals seen was kept for the information of Her Majesty's Commissioners.

I ordered Her Majesty's ship "Pheasant" to proceed towards St. George's, Pribyloff Islands, on the 1st September, to cruize from there to Cape Newenham, and return on a zigzag course to Ounalaska.

115 On the 1st September the United States ship "Mohican" towed into port the British schooner "Otto," in accordance with my letter to Commander C. S. Cotton, United States Navy, dated the 26th August, 1891, a copy of which is herewith inclosed. Her Majesty's ship "Pheasant" was in harbour at the time, and after taking charge of her papers sent her down to Victoria.

On arriving at Ounalaska on the 6th September, I found in port United States ships "Mohican," "Marion," "Alert," and "Thetis," and as United States ship "Alert" had received telegraphic orders for China, and could not obtain either coal or oil at Ounalaska, I sold her the amount of each she required.

United States ship "Marion" sailed on the 7th, and the United States ship "Alert" on the 10th August, for China, and later United States ship "Mohican" and United States ship "Thetis" went out for a cruize, Commander Cotton intending to sail for San Francisco after his return to Ounalaska.

Steam-ship "Danube" arrived at Ounalaska on the 17th September. As vessels coming in brought news that the usual heavy weather had set in, and I considered there was no further chance of sealing in open boats for the remainder of this year, and as Sir George Baden-Powell informed me that he intended to proceed to Sitka, I sailed from Ounalaska for that port on the 20th September, at the same time as steam-ship "Danube" and steam-ship "Costa Rica."

After coaling at Sitka from steam-ship "Costa Rica," I ordered her to proceed to Esquimault on the 26th September. Steam-ship "Danube" left Sitka on the 27th September, and went down by the outside route, calling at various ports for sealing information.

I sailed from Sitka on the 27th September, and arrived at this port on the 2nd October.

Before leaving the Behring's Sea, I thanked Commander Cotton and the officers in command of United States men-of-war for the efficient manner in which they had co-operated with me. Her Majesty's ships "Porpoise" and "Pheasant" also materially aided me in my mission.

The weather experienced on the whole was very foggy and rainy, and the fogs greatly aided the sealing-schooners in escaping observation.

I have, &c.

(Signed) CHAS. T. TURNER.

[Inclosure 3 in No. 165.]

Letter of Warning addressed by Commander Turner to the Masters of Sealing Schooners.

"NYMPHE, *Behring's Sea,*

SIR: In accordance with the Proclamation of Her Britannic Majesty's Government, a copy of which is herewith handed you, and in compliance with the orders of the British Admiralty, you are hereby warned not to engage in the killing or taking of seals in that part of Behring's Sea lying east of the boundary-line between United States and Russian waters, referred to in the Proclamation, and the position of which, traced upon a Chart, will be shown you by the officer who delivers this.

The name of your vessel will be furnished to all vessels of war (British and United States) and revenue-vessels in this sea, and you will be subject to seizure if you fail to heed this warning, and are found to be, or to have been, engaged in sealing in the prohibited waters since its delivery to you.

I have, &c.

(Signed) CHAS. T. TURNER.

[Inclosure 4 in No. 165.]

Form of Certificate to be copied in Register or Log by Boarding Officer.

H. M. S.—— ——

Date —— ——

I certify that I have this day delivered the Proclamation of Her Britannic Majesty and letter of warning of —— —— to leave these waters forthwith to this vessel, and that there are now —— skins on board.

116 *Data.*

Date. Place or position (when boarded), name of vessel, name of owner, name of master, nationality, port of register, tonnage, number of skins taken, number of skins on board. Remarks.

[Inclosure 5 in No. 165.]

Instructions for Boarding Officer.

"NYMPHE," AT OUNALASKA, *July 1st, 1891.*

The boarding officer will deliver the Proclamation of Her Britannic Majesty and the letter of warning to masters of vessels, read the letter to them, and make entry on register or log (preferably the register) of all vessels engaged in, or equipped for, sealing, certifying to the delivery.

He will ascertain, if possible, the number of skins taken, and the number on board, if the vessel be a sealer or equipped as one. If the master states there are none, he will take his statement as correct, but if he states that a certain number are on board, he will satisfy himself that the number is not less than that stated. If the master declares any intention as to his future movements, the boarding officer will make a note of it.

A tracing showing the line of demarcation between the United States and Russian waters is to be furnished for his information, and that of masters of vessels boarded.

(Signed) CHAS. T. TURNER,
Commander and Senior Officer.

The COMMANDING OFFICERS,
Her Majesty's ships "Porpoise" and "Pheasant."

[Inclosure 6 in No. 165.]

Commander Turner to Commander Cotton, U. S. N.

"NYMPHE," AT OUNALASKA, *August 26, 1891.*

SIR: I have the honour to inform you that since I told you by word of mouth only that I considered schooner "Otto" to be a just and lawful capture for any vessel of war of either nation, as she had sailed for the Behring's Sea for sealing purposes after I had told the Collector of Customs, Mr. Milne, of the Proclamation, I now put this in writing for your guidance.

I have, &c. (Signed) CHAS. T. TURNER.

No. 166.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 16.)

[Telegraphic.]

WASHINGTON, *November 16, 1891.*

Mr. Blaine informed me to-day that he was ready to agree to the following arrangements:

The Arbitrators, who must all be jurists of repute, and understand English, are to be seven in number. Two British subjects (one may be

a Canadian) shall be appointed by Her Majesty's Government. Two Americans shall be appointed by the United States Government. The other three shall be appointed by foreign Governments. He has no objection to selection by France, Holland, Sweden, Switzerland, Mexico, or Brazil.

He thought Paris would not be objected to as place of sitting, but he could not pledge himself, as he had omitted to consult the President.

Copies of the Articles of the Arbitration Agreement and the Joint Commission Article, as agreed on in correspondence, are being prepared for signature.

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117 No. 167.

Foreign Office to Admiralty.

FOREIGN OFFICE, *November 19, 1891.*

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 10th instant, inclosing a general Report of the proceedings of Her Majesty's ships in the Behring's Sea, which has been sent home by the Commander-in-chief on the Pacific Station.

I am to state that Lord Salisbury concurs in the proposal of the Lords Commissioners of the Admiralty to approve the proceedings of Commanders Turner and Barr and Lieutenant Hadley, of Her Majesty's ships "Nymphe," "Porpoise," and "Pheasant."

I am, &c.

(Signed) T. H. SANDERSON.

No. 168.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 21.)

[Telegraphic.]

WASHINGTON, *November 21, 1891.*

With reference to the last paragraph of my telegram of the 16th instant, Monday next has been appointed by Mr. Blaine for signature. The following headings have been agreed upon:

The following is the text of Articles for insertion in the Behring's Sea Arbitration Agreement, as settled in the diplomatic correspondence between (the two Governments respectively).

For the Joint Commission Article the same headings, *mutatis mutandis*.

Are they approved by your Lordship?

No. 169.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *November 22, 1891.*

You are authorized to sign the Arbitration Agreement and the Joint Commission Article with the headings suggested in your telegram of yesterday; but you should hand in a note containing the following reservations at the time of doing so:

Firstly, that it is understood by Article 6 that the question of the necessity of any Regulations for the proper protection and the preservation of fur-seals in, or habitually resorting to, the Behring's Sea is left to the decision of the Arbitrators, as well as the nature of those Regulations, if the necessity, in their judgment, is proved to exist.

Secondly, that the observance of the Regulations will not become obligatory on the United States and Great Britain until the other Maritime Powers also shall have accepted them.

Great Britain and the United States would otherwise simply hand over to the nationals of other countries the right of exterminating the seals.

No. 170.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 23.)

[Extract.]

WASHINGTON, *November 13, 1891.*

I have the honour to transmit herewith copies of a narrative by a correspondent of the "New York Herald" (published in that journal on the 8th instant) of his voyage to Behring's Sea during the last seal fishery season, undertaken for the purpose of inquiring into the facts connected with that industry.

A part of the narrative which is of special interest is that which appears at the close under the heading, "How to save the Seal."

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118 [Inclosure in No. 170.]

Extracts from the "New York Herald" of November 8, 1891.

ILLICIT SEALING.—ITS RISE AND INCREASE IN THE LAST TEN YEARS IN BEHRING'S SEA.—There are two systems of seal hunting: one with Indian hunters, who get paid from 2 dollars to 4 dollars for every skin a canoe brings in, and the other with White hunters, who are paid a little less. The Indians hunt in canoes, two in each, and use the spear almost exclusively; the White hunter has a steerer and a boat puller, and uses the gun, loaded with five drams of gunpowder and about twenty buckshot. It is the latter method that is so complained of by those who wish to prevent the extermination of the seal, as they say with truth a very large percentage are shot and either killed or mortally wounded, without being recovered.

On the 2nd July we left Victoria, intending to make our first call at a Settlement of Indians called Clayoquot. It seemed strange that, although the Queen's Proclamation forbidding the killing of seals by British subjects had already been announced, no difficulty was made by the authorities in giving the captain of the "Otto" his clearance for the Behring's Sea. Neither was he officially informed of the Proclamation, notwithstanding the fact that Her Majesty's steam-ships "Pheasant" and "Nymphe" had already sailed from Esquimalt to the sea to carry out the orders of the Queen's Government. Before going into the history of the cruise of the "Otto," a short account of the rise and development of the seal-poaching industry will be necessary. Although the poachers, to give them the name accorded to them by the public generally, are styled Canadian, a large number hail from San Francisco, Seattle, Portland, and Port Townsend, in the United States; and many of those sailing from Victoria and Vancouver, British Columbia, under the British flag, are partly owned by American citizens.

The first schooner on record to enter the Behring's Sea in pursuit of seals was the American-owned "Santiago," of San Francisco, in 1879. It was not until the fall of 1883 that the "Favourite," with the present captain of the "Otto" on board, pioneered the way for the Canadian sealers. In 1884 there were only six schooners from San Francisco and Victoria combined that entered the sea. Year by year the seals have been driven further north, and each successive year has seen an increase in the number of poachers. Last year (1890) twenty-three schooners sailed from Victoria, and this year the *number reported* had increased out of all proportion.

Every port on the Pacific coast, from San Francisco to Victoria, appeared to have sent out its quota, and on the day the "Otto" left the latter place it was stated that fifty-three schooners were already on their way to the famous sealing grounds from that port. The "Victorian Colonist" gave the names and owners of that number, although I afterwards found out there were over eighty-nine sealers in the sea this year.

It is hard to explain this large increase, in the face of both the American and British Governments proclaiming a close season. One reason given was that neither the Americans nor British cruizers intended to interfere, and that the Proclamation and sending of men-of-war to the sea were only done to satisfy the American public. Another reason is a most unaccountable one. Somehow the rumour gained currency that a bounty or compensation will be paid to the owner of every schooner that is stopped from sealing.

* * * * * * *

The Indians, with their spears, did not lose more than 1 per cent. of what they hit, as the fact of losing their game meant losing their harpoon and line as well. On the other hand, the Indians complained that the White hunters with their guns had scared the seals from the coast of the islands, and that they lose at the very least 20 per cent. of what they shoot and kill or wound, to eventually die. "A few years ago," said the Father, "the Chuckelset Indians caught over 1,600 seals off the coast of the island in their canoes, but they cannot do that now. The guns of the White hunters have scared them all away.

"The seal," said Father Brabant, "is a most intelligent animal; they even wake the sleepers when they see danger approaching, and there is no doubt they have left our coast owing to the guns. Why, the Indians themselves used to have a law against the use of guns. Another thing that I cannot see the equity of," said the Father, "is that the American Company have been allowed 7,500 skins this year for the support of their Indians. If the Aleuts are to be supported, why should the Vancouver Indians be debarred from their chief source of livelihood. The Aleuts, as a fact, do not require the Company to look after them. If they were left
119 alone on their own islands, instead of being moved about as they are, they could hunt for themselves."

Father Brabant said he hardly knew how the future extermination of the seals was to be prevented, unless the two Governments were to take sealing under their supervision; that is, provided the Behring's Sea was not a closed sea. They could license sealers, restrict them as to the number of seals caught, and make a close season during the breeding time, as there was no doubt that large numbers of females bearing young were killed.

* * * * * * *

Wednesday, the 26th August, was a good sealing day, and I was for some hours out in the Indian canoe. The result of the day's work gives a fair example of the frightful percentage of seals that are killed and never recovered. The two boats and the canoe started out early in the forenoon and returned at six. The captain had one seal and had lost six others, either killed or wounded. Phillip, who was doing the shooting in the other boat, said that they had got up on to no less than seven seals and shot them, but they had all sunk. The men said the water was covered with blood, but they could not get the animals.

The two Indians, who used nothing but the spear, returned with ten. They had missed fifteen or twenty, but, as one of them philosophically remarked to the captain, "It does not matter, they are not hurt like with the gun, or killed, and they will do for another day or year." We managed to take sights this day, and found we were 75 miles west by north of the volcanoes on the peninsula. On the 27th and 28th August very little was done, as the weather was too rough for the boats to go out. Three seals were captured in the forenoon of the 27th before it came on to blow, when we were once again under storm trysail and double reefed foresail.

On the following day, the 28th, the boats were out all day and returned without catching anything, the captain thinking we were too far to the northward and eastward. He said he wanted the wind to get to the west. On the next day the boats were out the greater part of the day, and our catch for the day was seventeen seals. The captain brought in three, having lost four, killed or wounded. The other boat brought in three, having killed five, and the Indians ten, making a total of seventeen.

During the skinning of the seals on deck, which is always done at night after the boats return, the schooner's decks were covered on this occasion, as on many previous ones, not only with blood, but with large quantities of milk, showing that many seals that had been killed were nourishing their young at the time, the result being that the pups on the island would starve for want of nursing, as no seal will feed any young ones except her own.

* * * * * * *

HOW TO SAVE THE SEAL: A PLAN TO PREVENT ITS EXTERMINATION IN THE NEAR FUTURE.—At present the question of whether Behring's Sea is open waters or not is

in statu quo. In the event, however, of its being declared a part of the high seas by the arbitration yet to be held, it would be absolutely necessary to propose a plan to prevent the future extermination of the seal, which there is little doubt would happen within a few years, unless some very strenuous measures are taken for its protection. The close season idea would hardly be practicable, as it is during the season of breeding that the lessees of the islands kill their seals, who are then found on the rookeries, and it is only during this season that the seals to any large extent are found there. Of course, on the islands they kill nothing but the young bulls. To make a close season for the open sea, and allow the seals to be killed on their breeding places, would be almost an impossibility.

The following plan, which I submitted to many of the largest fur-traders in both Victoria and San Francisco, the members of the Alaska Commercial Company—the late lessees of the island—as well as many of those who were absolutely employed in the hunting, seems to be the most feasible method of protecting the very necessary animals, which, perhaps, though they are a luxury, are still to a certain extent a necessity. The North American Commercial Company, who now lease the seal-breeding islands known as the Pribyloff group, pay the United States 100,000 dollars per year, and 9 dol. 62 c. per skin for everything they take from the island.

When there was no limit to the number of seals that they were allowed to kill, before the present *modus vivendi* was agreed upon between the United States and Great Britain, their payments brought into the American Government a revenue of about 300,000 dollars per year. This is a very small item in the revenue of such a great nation, and it has been suggested that the Government of the United States shall refrain from leasing the Pribyloff Islands to any Company whatever; that no seals shall be killed on the rookeries, which shall be retained to allow the fur-bearing seal a safe breeding place.

On consideration of the United States refraining from leasing the islands, the right of doing which they would, of course, still legally retain, an international agreement could be entered into between the different nations, making it a criminal offence for any poacher to be found sailing within a prescribed distance of the island—say, from 60 to 80 miles around them—which would give female seals lots of space to feed in. Those to whom I suggested this solution, even although interested in seal schooners, said they would be perfectly willing to accept such a law, and that they could catch outside of the 80-mile limit sufficient seals to make seal-hunting as good a paying business as it was heretofore. In addition to this, it has been suggested that all sealing-schooners should be licensed, and any vessel found hunting the seal in Behring's Sea or outside of it without a licence should be seized, and no shooting should be allowed. The cost of maintaining cruizers to see that this was done would be very small, as there would be a very restricted area of the Behring's Sea to patrol. The above, of course, would only be feasible in the event of the sea being declared open, for if the Arbitration Committee rule that it is a closed sea, and belongs to the United States, of course all poachers would be liable to seizure.

No. 171.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 25.)

[Telegraphic.]

WASHINGTON, *November 24, 1891.*

I addressed a note to Mr. Blaine, as instructed by your Lordship's telegram of the 22nd instant, and this morning had a long interview with him. He has postponed the signing until he has referred the matter to the President and Cabinet, who sit to-day. Both reservations are objected to by him, especially the second, which he said imposed a new condition never before suggested during the negotiations. He said he would advise the President not to accept it.

I stated that your Lordship only desired to obviate doubts or differences at a later stage, and was most anxious for the arbitration. I repeated your Lordship's reasons for the reservation, and pointed out that it was only in the event of the Arbitrators, by their decision, proclaiming to the world that pelagic fishery was free to all flags that the

question would arise. In that case we could not stultify ourselves by submitting to Regulations not obligatory on all.

Mr. Blaine then asked me what Her Majesty's Government would consent to do after the 1st May, pending the adhesion of the other Powers. Would a cessation of sealing be agreed to by them? I informed him, in reply, that I could not say what their action would be, but that probably the Regulations recommended by the Joint Commission or the Arbitrators, pending the result of the invitation to the Powers, would be voluntarily conformed to. Mr. Blaine then took my note with him to the Cabinet, and promised to send me a reply.

No. 172.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 28.)

[Telegraphic.]

WASHINGTON, *November 27, 1891.*

With reference to my telegram of the 24th instant, Mr. Blaine's reply has just been received. Copy transmitted by post. It is to the following effect:

[See Inclosure in Sir J. Pauncefote's despatch of the 27th November: Inclosure in No. 179, *infra.*]

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No. 173.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *November 29, 1891.*

I have received your telegram of the 27th instant.

Mr. Blaine's statement, in his note of which you report the receipt, that my first reservation is unnecessary answers the end which that reservation was intended to answer, and it may, therefore, be waived. I did not by my second reservation intend to propose that the practical execution of the Regulations should be delayed, but that the two Governments should protect themselves from being placed at the mercy of some third Power, which, if not pledged to observe the Regulations, might step in and secure the fishery at the times and places where the United States and England would bind themselves by their Agreement to abstain from it. It is necessary that some precaution should be taken in this direction, otherwise the vessels, both British and American, at present engaged in sealing, might all, by simply procuring a Russian register, recover their entire freedom.

I should, therefore, wish you to ascertain whether the United States Government would be prepared to agree to some provision of the following nature:

If, after the expiration of one year from the date of any decision of the Arbitrators as to the necessity of concurrent Regulations, it should appear to either of the two Powers that such Regulations are being violated under the flag of a third Power, to the serious injury of the

fishery, the complaining Power shall have the right to give notice that the Regulations will be suspended during the ensuing year, until arrangements are made by which the evil can be remedied. If, however, there should be any difference of opinion between the United States and Great Britain as to the fact that serious injury is being done to the fishery, or as to any other fact involved, such difference may be decided by referring the matter to the arbitration of two Admirals, one of the British and the other of the United States navy, who may choose an Umpire in case they are unable to agree.

No. 174.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 3.)

WASHINGTON, *November 23, 1891.*

MY LORD: With reference to your Lordship's telegram of yesterday, I have the honour to inclose herewith copy of a note which I have this day addressed to Mr. Blaine, stating the two reservations which your Lordship desires to make in regard to clause 6 of the Behring's Sea Arbitration Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 174.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *November 23, 1891.*

SIR: I informed the Marquis of Salisbury of our proposal to sign the text of the seven Articles to be inserted in the Behring's Sea Arbitration Agreement and of the Joint Commission Article, as settled in the diplomatic correspondence, in order to record the progress made up to the present time in the negotiation.

Lord Salisbury entirely approves of that proposal, but he has instructed me, before signing, to address a note to you for the purpose of obviating any doubts which might hereafter arise as to the meaning and effect of Article VI, which is as follows:

"If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and the preservation of the fur-seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend; and to aid them in that determination the Report of the Joint Commission to be appointed by the respective Gov-
122 ernments shall be laid before them, with such other evidence as either Government may submit. The Contracting Powers furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations."

Lord Salisbury desires to make the following two reservations on the above Article:

His Lordship understands, first, that the necessity of any Regulations is left to the Arbitrators, as well as the nature of those Regulations, if the necessity is in their judgment proved; secondly, that the Regulations will not become obligatory on Great Britain and the United States until they have been accepted by the other Maritime Powers, otherwise, as his Lordship observes, the two Governments would be simply handing over to others the right of exterminating the seals.

I have no doubt that you will have no difficulty in concurring in the above reservations, and, subject thereto, I shall be prepared to sign the Articles as proposed.

I ha e, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 175.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 4.)

[Telegraphic.]

WASHINGTON, *December 3, 1891.*

I received last night a reply to my note of the 1st instant to Mr. Blaine, containing the substance of your Lordship's telegram of the 29th ultimo, copy of which was forwarded in my despatch of the same date.

It is to the following effect:

The President of the United States is unable to see danger of a third Power engaging in fishery regardless of Regulations. The dispute has been in progress more than five years. During all that time no European nation has engaged in sealing while Great Britain was maintaining that Behring's Sea was open to all commerce. A German vessel once appeared, but never returned, presumably finding sealing there unsuccessful on account of great distance. Russia will not dissent, because such dissent would put to hazard her own sealing property in Behring's Sea. On the contrary, she will sustain and strengthen whatever Agreement Great Britain and United States may conjointly ordain. President therefore thinks your Lordship's apprehensions not well grounded, but he believes that whatever may be the issue of the arbitration, "it will be wise for the two Governments to unite in a note to the principal Powers of Europe advising them in full of what has been done, and confidently asking their approval. He does not believe, with full explanation, any attempt will be made to disturb the Agreement. If, contrary to his firm belief, the Agreement shall be disturbed by the interference of a third Power, Great Britain and United States can act conjointly, and they can then far better agree on what measure may be necessary to prevent the destruction of the seals than they can at this time."

President hopes that the arbitration "will be allowed to proceed on the Agreement regularly and promptly. It is of great consequence to both nations that the dispute be ended, and that no delay be caused by introducing new elements into the Agreement to which both nations have given their consent."

No. 176.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received December 5.)

GOVERNMENT HOUSE, *Ottawa, November 25, 1891.*

MY LORD: We have the honour to acknowledge the receipt of your Lordship's despatch of the 30th ultimo, inclosing a copy of a despatch from Her Majesty's Minister at Washington, transmitting correspondence with the United States Government regarding the number of seals killed on the Pribyloff Islands during the season of 1891 in excess of 7,500, and inviting from us any further observations we may desire to offer on the subject.

2. We notice that in the said despatch, Sir Julian Pauncefote has given a complete answer to many of the points in Mr. Wharton's
123 letter of the 10th October. We would venture, however, to add some observations, the outcome of our special inquiry, in case the question is pursued further.

3. We would point out that the frequent references in Mr. Wharton's letter to "killing for food" are altogether beside the question. All skins of such seals, if of proper size and condition, are accepted by the lessees, and are always included in their annual quota, while much of the flesh is taken for the sustenance of the natives. But the 7,500 limit was fixed as a sufficient number of skins to cover the cost of the care and sustenance of the natives, as indeed was acknowledged by the Treasury Agent, who, as reported by Mr. Wharton, called upon the lessees to bring in a sufficient supply of beef to carry the natives through the winter, although it might have been added that this beef would be purchased by the Government, and by them distributed to the natives.

4. We observe that Mr. Wharton points out that the Treasury Agent had reported that up to the 2nd July, 9,042 seals had been killed. He does not explain that by the 20th June, killing had been stopped on the expressed plea that the 7,500 limit had been reached.

5. Mr. Wharton points out that Major Williams consulted several American gentlemen, including the two United States Commissioners and the Senior Naval Officer, as to the correctness of his decision as to when the 7,500 limit was to be applied. We were informed that none of these gentlemen had seen the previous correspondence on the subject, so that their advice was merely on the facts as presented to them on the spot.

6. We could do no more than explain to the Agent that the Proclamation, correct as it might be in itself, did not contain the whole case. Neither Major Williams nor any of the American gentlemen he consulted had any information or instructions enabling them to understand the conditions to which the United States had previously agreed, and which were eventually embodied in the *modus vivendi* of the 5th June.

7. Both Professor Mendenhall and Dr. Merriam at the first expressed to us their decided agreement with us in the opinion that the 7,500 limit must not be exceeded. It was only at a second chance interview that they explained that after looking into the question, they saw that the period could only begin on the 15th June.

8. From this view we entirely dissented, as recorded in our letter to Major Williams of the 30th July, a copy of which was inclosed in our despatch of the 5th August last.

9. In regard to the phrase "the catch this season" in our letter to Major Williams above mentioned, this was intended to include the same period as that covered in Mr. Blaine's letter of the 4th May, 1891, to Sir Julian Pauncefote, in which Mr. Blaine says: "If the Company shall . . . be deprived of all privilege of taking seals, they certainly could not be compelled to minister to the wants of these 300 inhabitants for an entire year. . . . In this exigency the President proposes to concede to the North American Company the right to take a sufficient number of seals, and no more than sufficient, to recompense them for their outlay in taking care of the natives. . . . The Secretary of the Treasury, after full consideration has limited the number to 7,500, to repay them for the outlay demanded for the support of the 300 people on the Pribyloff Islands."

10. We do not understand that the United States Government in any way indorse the action of the Treasury Agent, who, as we have already pointed out, acted in perfect good faith, but was without the necessary instructions.

11. We presume that all the skins taken this year in excess of 7,500 will be held over for next year's quota, inasmuch as if sold for the

account of the Company this year they would provide funds very much "more than sufficient to recompense them for their outlay in taking care of the natives" for this entire year, which would be in direct contravention of the expressed intentions and wishes of the President of the United States.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

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124 No. 177.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *December 5, 1891.*

SIR: I have received your despatch of the 23rd ultimo, inclosing copy of a note which, in compliance with instructions contained in my telegram of the 22nd ultimo, you have addressed to Mr. Blaine, setting forth the two reservations made by Her Majesty's Government with regard to clause 6 of the Behring's Sea Arbitration Agreement.

I have to state, in reply, that the note addressed by you to Mr. Blaine is approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 178.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 7.)

WASHINGTON, *November 27, 1891.*

MY LORD: With reference to my telegram of the 24th instant, I have the honour now to report in greater detail what took place at the interview which I had with Mr. Blaine on that day respecting the two reservations which your Lordship instructed me to make before signing the clauses for insertion in the Behring's Sea Agreement.

Mr. Blaine, who had before him the note which I had addressed to him on the subject, and of which I transmitted a copy to your Lordship in my despatch of the 23rd instant, took exception to both reservations, which he said he could not advise the President to accept. I said that these reservations imposed no new conditions whatever, and were intended simply to obviate any doubt as to the meaning and effect of the 6th clause, and thus to prevent any disagreement at a later stage.

Mr. Blaine asked what was the object of the first reservation. I replied that the 6th clause appeared to me to imply that Regulations for the control of pelagic sealing were necessary—a proposition which was opposed to the contention of Canada—and I presumed that it was on that ground that your Lordship desired to make it clear that it would be open to the Arbitrators to hold that no such Regulations at all were necessary.

Mr. Blaine observed that he did not think the language of the clause precluded such a finding. He proceeded to express the strongest objection to the second reservation, which he said was calculated to

wreck the whole arrangement. How many maritime Powers, he asked, were to be invited to adhere to the Regulations? What prospect was there of obtaining their adhesion, seeing that they had declined the invitation of Mr. Bayard to join in an international arrangement for the protection of the fur-seal fisheries? It had never been suggested before in the course of the negotiations that the Regulations to be framed should not be obligatory on the two Governments until they had received the adhesion of the other Powers. What were Her Majesty's Government prepared to do pending such adhesion? Would they consent to a cessation of pelagic sealing? To these questions I replied that if, after a careful investigation and study by the Joint Commission, it should be established by the Commission, or, in case of disagreement, by the arbitration, that certain Regulations are necessary for the preservation of the seal species, it would be unreasonable to doubt that the Great Powers would acquiesce at once in those Regulations, or that the minor Powers would hesitate to follow their example.

I pointed out that no International Regulations would be made unless the award of the Arbitrators should have previously proclaimed to the world that the fur-seal fishery in Behring's Sea is free to all flags. In that case, if the other Powers were, as Mr. Blaine apprehended, to refuse their adhesion to the Regulations, the result would be, in the words of your Lordship, that the two Governments most interested had simply handed over to others the right of exterminating the seals. Her Majesty's Government could hardly be expected to place themselves in such a position. They could not stultify themselves by submitting permanently or for any length of time to Regulations which were not equally obligatory on other Governments. What they would do, pending the adhesion of the Powers, I was not prepared to say, but I thought it probable that they would voluntarily observe the Regu-
125 lations pending the result of the invitation of Great Britain and the United States to the Powers, or so long as circumstances, in their judgment, might render it practicable.

Mr. Blaine said he would send a reply to my note after laying the matter before the President and the Cabinet which was then sitting, and, in the meanwhile, the signature of the clauses was postponed.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 179.

*Sir J. Pauncefote to the Marquis of Salisbury.**—*(Received December 7.)*

WASHINGTON, *November 27, 1891.*

MY LORD: In my despatch of the 23rd instant I transmitted a copy of the note which I addressed to Mr. Blaine, informing him of the reservations which your Lordship had instructed me to make respecting clause 6 of the proposed Behring's Sea Arbitration Agreement, before signing the text of the seven clauses as settled in the diplomatic correspondence.

I now have the honour to inclose a copy of Mr. Blaine's reply to that note, which I received to-day.

* Substance telegraphed.

He appears to attach some weight to the fact of my having left with him, at his request, a paper containing the text of the seven clauses as they appear in my copy of the diplomatic correspondence, and which I had caused to be prepared for the purpose of comparison and verification. He had himself handed me a few days before, and for the same purpose, a similar paper containing the text of the clauses taken from his copy of the diplomatic correspondence.

I am at a loss to understand how that exchange of courtesies, which is a common practice under similar circumstances, can possibly affect the questions under consideration.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 179.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, November 27, 1891.*

SIR: In the early part of last week you furnished the exact points which had been agreed upon for arbitration in the matter of the Behring's Sea negotiation. You called later, and corrected the language which introduced the agreement In fact, the two copies framed were taken entirely from your Minutes. It was done with a view that you and I should sign them, and thus authenticate the points for the Arbitrators to consider.

You inform me now that Lord Salisbury asks to make two reservations in the 6th Article. His first reservation is that "the necessity of any Regulation is left to the Arbitrators as well as the nature of those Regulations, if the necessity is in their judgment proved."

What reason has Lord Salisbury for altering the text of the Article to which he had agreed? It is to be presumed that if Regulations are needed they will be made. If they are not needed, the Arbitrators will not make them. The agreement leaves the Arbitrators free upon that point. The first reservation, therefore, has no special meaning.

The second reservation which Lord Salisbury makes is that "the Regulations shall not become obligatory on Great Britain and the United States until they have been accepted by the other Maritime Powers." Does Lord Salisbury mean that the United States and Great Britain shall refrain from taking seals until every Maritime Power joins in the Regulations? Or does he mean that sealing shall be resumed on the 1st May next, and that we shall proceed, as before the arbitration, until the Regulations have been accepted by the other "Maritime Powers"?

126 "Maritime Powers" may mean one thing or another. Lord Salisbury did not say the principal maritime Powers. France, Spain, Portugal, Italy, Austria, Turkey, Russia, Germany, Sweden, Holland, Belgium are all Maritime Powers in the sense that they maintain a navy, great or small. In like manner, Brazil, the Argentine Confederation, Chile, Peru, Mexico, and Japan are Maritime Powers. It would require a long time, three years at least, to get the assent of all these Powers. Mr. Bayard, on the 19th August, 1887, addressed Great Britain, Germany, France, Russia, Sweden and Norway, and Japan, with a view to securing some Regulations in regard to the seals in Behring's Sea. France, Japan, and Russia replied with languid indifference. Great Britain never replied in writing. Germany did not reply at all. Sweden and Norway said that the matter was of no interest to them. Thus it will be again. Such a proposition will postpone the matter indefinitely.

The President regards Lord Salisbury's second reservation, therefore, as a material change in the terms of the arbitration agreed upon by this Government, and he instructs me to say that he does not feel willing to take it into consideration. He adheres to every point of agreement which has been made between the two Powers, according to the text which you furnished. He will regret if Lord Salisbury shall insist on a substantially new agreement. He sees no objection to submitting the agreement to the principal Maritime Powers for their assent, but he cannot agree that Great Britain and the United States shall make their adjustment dependent on the action of third parties who have no direct interest in the seal fisheries, or that the settlement shall be postponed until those third parties see fit to act.

I have, &c

(Signed) JAMES G. BLAINE.

No. 180.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *December 7, 1891.*

I have received your telegram of the 4th instant.

The President of the United States does not, I think, rightly understand the exact nature of the danger against which I think it necessary to make provision.

Her Majesty's Government do not fear that Regulations which have been made by the Arbitrators will be rejected by any of the Maritime Powers; but they think there is much ground for apprehension that those Powers may refuse to accept Treaties framed for the purpose of enabling our cruizers to arrest ships which are violating the Regulations while sailing under their flag. It must be expected that, under these circumstances, sealing will be pursued under their flags during the close times.

In signing the proposed Agreement, it certainly is not the intention of the two Powers to arrive at such a result. But should you find, after making a representation in the above sense, that the President continues to hold the opinion that the danger I have indicated is too remote to justify our incurring delay by guarding against it now, Her Majesty's Government are willing to yield to his appeal, and will not at this stage press for further discussion of the point. In that case, you are authorized to sign the Agreement as already settled.

Her Majesty's Government will, of course, retain their right of raising the point before the Arbitrators when the time arrives for determining the question of the Regulations; and it is understood that full discretion will be vested in the Arbitrators to attach to any Regulations they may decide upon such conditions as, in view of this difficulty, they may judge to be necessary and just to the interests of this country and of the United States.

No. 181.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 9.)

WASHINGTON, *December 1, 1891.*

MY LORD: I have the honour to inclose copy of a note which, on receipt of your Lordship's telegram of the 29th ultimo, I
127 addressed to the Secretary of State in reply to his note of the 27th ultimo, objecting to reservations which Her Majesty's Government desire to make with respect to the 6th clause of the proposed Behring's Sea Arbitration Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 181.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *December 1, 1891.*

SIR: I communicated by telegram to the Marquis of Salisbury the substance of your note of the 27th ultimo respecting the two reservations which Her Majesty's Government desire to make in relation to the 6th clause of the proposed Behring's

Sea Arbitration Agreement, as stated in my note of the 23rd ultimo, and I have now the honour to inform you that I have received a reply from his Lordship to the following effect.

As regards the first reservation, Lord Salisbury observes that the statement contained in your note, that the clause leaves the Arbitrators free to decide whether Regulations are needed or not, assures the same end as the proposed reservation, which therefore becomes unnecessary, and may be put aside.

With respect to the second reservation, his Lordship states that it was not the intention of Her Majesty's Government to defer putting into execution any Regulations which the Arbitrators may prescribe. Its object is to prevent the fur-seal fishery in Behring's Sea from being placed at the mercy of some third Power. There is nothing to prevent such third Power (Russia, for instance, as the most neighbouring nation), if unpledged, from stepping in and securing the fishery at the very seasons and in the very places which may be closed to the sealers of Great Britain and the United States by the Regulations. Great circumspection is called for in this direction, as British and American sealers might recover their freedom, and evade all Regulations by simply hoisting the flag of a non-adhering Power.

How is this difficulty to be met? Lord Salisbury suggests that, if after the lapse of one year from the date of the decree of Regulations it shall appear to either Government that serious injury is occasioned to the fishery from the causes above mentioned, the Government complaining may give notice of the suspension of the Regulations during the ensuing year, and in such case the Regulations shall be suspended until arrangements are made to remedy the complaint.

Lord Salisbury further proposes that, in case of any dispute arising between the two Governments as to the gravity of the injury caused to the fishery, or as to any other fact, the question in controversy shall be referred for decision to a British and an American Admiral, who, if they should be unable to agree, may select an Umpire.

Lord Salisbury desires me to ascertain whether some provision of the above nature would not meet the views of your Government.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 182.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 11.)

[Telegraphic.]

WASHINGTON, *December 10, 1891.*

Immediately on receipt of your Lordship's telegram of the 7th instant relative to Behring's Sea I addressed a note to Mr. Blaine, as instructed, in the sense of the first part of the telegram above mentioned, concluding with the words "at such a result."

I referred to a previous conversation which I had held with him on the same subject, and added that I did not understand him to deny my contention that if the arrangement arrived at between the two Governments were, as your Lordship apprehended, violated by ships under foreign flags, to the serious injury of the seal-fishery, the Agreement must in that case collapse, as the two Governments could not be expected to enforce the Regulations on their nationals while such violations were taking place. For these reasons I expressed the hope that, on
128 further consideration, the President would recognize the importance of arriving at some understanding of the nature suggested by your Lordship.

I have to-day received a reply from Mr. Blaine to the following effect (see inclosure in Sir J. Pauncefote's despatch of the 10th December).

Shall I now reply to Mr. Blaine in the sense of the second part of your Lordship's telegram above mentioned, and offer to sign the Agreement, subject to the reservation and understanding set forth in the last paragraph?

I await your Lordship's instructions.

No. 183.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *December 11, 1891.*

In reply to the inquiry in the last paragraph of your telegram of the 10th instant, I have to inform you that you are authorized to sign the Articles providing for the Behring's Sea Arbitration and Joint Commission, as already settled, subject to the understanding explained in my telegram of the 7th instant.

No. 184.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 15.)

[Telegraphic.]

WASHINGTON, *December 14, 1891.*

I addressed a note to Mr. Blaine on receipt of your Lordship's telegram of the 11th instant, as proposed in the last paragraph of my telegram of the 10th instant.

Following reply has just been received:

[See Inclosure 1 in Sir J. Pauncefote's despatch of December 15: Inclosure 1 in No. 192, *infra.*]

I will of course let Mr. Blaine know that, pending further instructions, I cannot sign.

No. 185.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *December 16, 1891.*

I have received your telegram of yesterday.

Owing to the difficulties of carrying on negotiations by telegraphic communication, I am afraid that the President of the United States has imperfectly understood my meaning.

At his request I have consented to defer any further discussion for the present as to the course to be pursued in the event of the Regulations determined on by the Arbitrators for the preservation of the seal species being evaded by means of a change of flag.

It was necessary in so doing that I should guard myself against the supposition of having narrowed by that consent the rights which accrue to the litigants or the Arbitrators under the Arbitration Agreement. But I did not, as the President appears to think, make a reservation in my last communication, or use that word. That a reservation may be operative in respect to an Agreement, it must have the assent of both parties to that Agreement, and I have not asked for any such assent in the present instance of the United States Government.

I am in entire accord with the President in objecting to the submission of any points to the Arbitrators which the Agreement does not embrace.

Whenever Mr. Blaine is willing to do so you are authorized to sign the Agreement.

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129 No. 186.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 17.)

[Telegraphic].

WASHINGTON, *December 17, 1891.*

Your Lordship's telegram of yesterday received last night.

I am addressing a note to Mr. Blaine in that sense, and expressing my willingness to sign.

No. 187.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 18.)

[Telegraphic].

WASHINGTON, *December 18, 1891.*

I have the honour to report, with reference to my telegram of yesterday, that Mr. Blaine and I signed this morning the text of the seven Articles to be inserted in the Behring's Sea Arbitration Convention, and also the text of the Joint Commission Article.

No. 188.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 19.)

WASHINGTON, *December 10, 1891.*

MY LORD: On receipt of your Lordship's telegram of the 4th instant I sought an interview with Mr. Blaine. Owing to the pressure of business connected with the opening of Congress, I was unable to see him until the morning of the 8th, when I had a long discussion with him at the State Department on the subject of his note of the 2nd instant respecting the 6th Article of the proposed Behring's Sea Arbitration Agreement. I pointed out to him that the danger which your Lordship apprehended was not so much from the non-acceptance by other Governments of the Fishery Regulations as from the practical difficulty of enforcing them without the power being given to British and American cruizers of arresting vessels under foreign flags found to be violating the Regulations. That was a power which foreign Governments would be unlikely to grant in view of the jealousy which exists respecting the right of search on the high seas. If your Lordship's apprehensions should be realized to such an extent as to cause serious injury to the fishery, the Agreement must necessarily collapse, as it could not be expected that either Government should continue to enforce on its nationals Regulations which were being violated with impunity under foreign flags.

Mr. Blaine readily admitted that in such case there would be an end of the Agreement, and said that every one would then be free to go in and make havoc of the seal fishery; but he persisted in treating it as a most remote contingency. He deprecated making arrangements to meet the evil before it arose, and thought the mere suggestion of such interference by other Powers would be mischievous. The point had not been raised before, and he could not understand why it should be introduced at this late hour when we were on the point of signing the Agreement.

I replied that the difficulty of protecting the seal fishery otherwise than on the basis of an international agreement among all the Powers had been repeatedly pointed out in the press of both countries, and by every writer on the subject. It was, indeed, admitted by the last paragraph of the 6th Article itself, whereby the two Governments agreed to invite the adhesion of the other Powers to the Regulations. Even if the contingency in view were so remote, as Mr. Blaine contended, I could not see what harm it could do to have such understanding as that suggested by your Lordship, and proposed in my note of the 1st instant, which would provide for the case of any difference of opinion arising as to the gravity of the injury caused to the fishery by the violation of the Regulations under foreign flags.

Mr. Blaine said that he could not consent to add a new term to the 6th Article as already agreed to after so much correspondence and discussion.

I replied that there could be no agreement if the two Governments were not *ad idem* as to its meaning. The arrangement proposed by your Lordship was in no way inconsistent with the 6th Article.
130 It was merely intended to make it clearer, and to regulate the action of the two Governments in certain events which might cause difficulties hereafter.

Mr. Blaine, however, insisted that it would be time enough to deal with those difficulties if and when they should arise.

I then brought the interview to a close, and on the same day I addressed a note to Mr. Blaine, of which a copy is transmitted herewith.

I received this day a reply thereto, of which I have the honour to inclose a copy.

This correspondence does not carry the matter any further, but it places on record the fact that while the United States Government admit that the proposed Regulations may be rendered nugatory by their violation under the flags of other Powers, they decline the reasonable proposal of Her Majesty's Government to settle beforehand the conditions under which the Regulations shall be deemed to have lapsed or to be suspended.

The conclusion would seem to be that each Government will be free to form its own judgment of the situation, and to take such action as it shall think fit under the circumstances.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 188.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, December 2, 1891.*

SIR: I have attentively read your note of the 1st instant, and submitted it to the President. The President is unable to see the danger which Lord Salisbury apprehends, of a third nation engaging in taking seals regardless of the Agreement

between Great Britain and the United States. The dispute between the two nations has now been in progress for more than five years. During all that time, while Great Britain was maintaining that the Behring's Sea was open to all comers, at any time, as of right, not another European nation has engaged in sealing.

A German vessel once made its appearance in Behring's Sea, but did not return, being satisfied, I suppose, that at the great distance they have to sail, the Germans could not successfully engage in sealing. Russia, whose interference Lord Salisbury seems to specially apprehend, will not dissent from the Agreement, because such dissent would put to hazard her own sealing property in the Behring's Sea. On the contrary, we may confidently look to Russia to sustain and strengthen whatever agreement Great Britain and the United States may conjointly ordain.

It is the judgment of the President, therefore, that the apprehension of Lord Salisbury is not well grounded. He believes that, however the arbitration between Great Britain and the United States may terminate, it will be wise for the two nations to unite in a note to the principal Powers of Europe, advising them in full of what has been done and confidently asking their approval. He does not believe that, with full explanation, any attempt will be made to disturb the Agreement. If, contrary to his firm belief, the Agreement shall be disturbed by the interference of a third Power, Great Britain and the United States can act conjointly, and they can then far better agree upon what measure may be necessary to prevent the destruction of the seals than they can at this time.

The President hopes that the arbitration between Great Britain and the United States will be allowed to proceed on the Agreement regularly and promptly. It is of great consequence to both nations that the dispute be ended, and that no delay be caused by introducing new elements into the Agreement to which both nations have given their consent.

I have, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 188

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *December 8, 1891.*

SIR: The Marquis of Salisbury, to whom I telegraphed the contents of your note of the 2nd instant on the subject of the 6th Article of the proposed Behring's
131 Sea Arbitration Agreement, is under the impression that the President has not rightly understood his Lordship's apprehension with reference to the Regulations to be made by the Arbitrators under that Article. His fear is, not that the other Powers will reject the Regulations, but that they will refuse to allow the arrest by British and American cruizers of ships under their flag which may engage in the fur-seal fishery in violation of the Regulations. Such refusal is highly probable in view of the jealousy which exists as to the right of search on the high seas; and the consequence must inevitably be that, during the close season, sealing will go on under other flags.

It cannot be the intention of the two Governments, in signing the proposed Agreement, to arrive at such a result. I do not understand you to dispute that, should such a state of things arise, the Agreement must collapse, as the two Governments could not be expected to enforce on their respective nationals Regulations which are violated under foreign flags to the serious injury of the fishery. I hope, therefore, that, on further consideration, the President will recognize the importance of arriving at some understanding of the kind suggested in my note of the 1st instant.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 3 in No. 188.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, December 10, 1891.*

SIR: In reply to your note of the 8th instant, I have the following observations to make:

1. Ever since the Behring's Sea question has been in dispute (now nearly six years), not one ship from France or Germany has ever engaged in sealing. This affords a strong presumption that none will engage in it in the future.

2. A still stronger ground against their taking part is that they cannot afford it. From France or Germany to Behring's Sea by the sailing lines is nearly 20,000 miles, and they would have to make the voyage with a larger ship than can be profitably employed in sealing. They would have to start from home the winter preceding the sealing season and risk an unusually hazardous voyage. When they reach the fishing grounds they have no territory to which they could resort for any purpose.

3. If we wait until we get France to agree that her ships shall be searched by American or British cruizers we will wait until the last seal is taken in Behring's Sea.

Thus much for France and Germany. Other European countries have the same disabilities. Russia, cited by Lord Salisbury as likely to embarrass the United States and England by interference, I should regard as an ally, and not an enemy. Nor is it probable that any American country will loan its flag to vessels engaged in violating the Behring's Sea Regulations.

To stop the arbitration a whole month on a question of this character promises ill for its success. Some other less important question even than this, if it can be found, may probably be started. The effect can only be to exhaust the time allotted for arbitration. We must act mutually on what is probable, not on what is remotely possible.

The President suggests again that the proper mode of proceeding is for Regulations to be agreed upon between the United States and Great Britain, and then submitted to the principal Maritime Powers. That is an intelligent and intelligible process. To stop now to consider the Regulations for outside nations is to indefinitely postpone the whole question. The President, therefore, adheres to his ground first announced, that we must have the arbitration as already agreed. He suggests to Lord Salisbury that any other process might make the arbitration impracticable within the time specified.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 189.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received December 19.*)

[Extract.]

WASHINGTON, *December 10, 1891.*

I have the honour to inform your Lordship that, in alluding to the Behring's Sea question, the President's Message states that he
132 is glad to be able to announce that terms of arbitration satisfactory to the United States Government have been arrived at, and that an agreement as to the Arbitrators is all that is necessary to the completion of the Convention. He also adds that, "in view of the advanced position which this Government has taken upon the subject of international arbitration, this renewed expression of our adherence to this method for the settlement of disputes such as have arisen in the Behring's Sea will, I doubt not, meet with the concurrence of Congress."

No. 190.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received December 19.*)

WASHINGTON, *December 11, 1891.*

MY LORD: With reference to your Lordship's telegram of to-day, I have the honour to inclose copy of a note which I have addressed to Mr. Blaine in the sense of the second part of your Lordship's telegram of the 7th instant, offering to sign the Behring's Sea Arbitration Agreement and Joint Commission Article on the understanding mentioned in that telegram.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 190.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *December 11, 1891.*

SIR: I have the honour to inform you that I telegraphed to the Marquis of Salisbury the substance of your note of yesterday respecting the 6th Article of the proposed Behring's Sea Arbitration Agreement, and that I have received a reply from his Lordship to the following effect:

In view of the strong opinion of the President, reiterated in your note of yesterday, that the danger apprehended by Lord Salisbury, and explained in my note of the 8th instant, is too remote to justify the delay which might be incurred by guarding against it now, his Lordship will yield to the President's appeal, and not press for further discussion at this stage.

Her Majesty's Government of course retain the right of raising the point when the question of framing the Regulations comes before the Arbitrators, and it is understood that the latter will have full discretion in the matter, and may attach such conditions to the Regulations as they may *à priori* judge to be necessary and just to the two Powers, in view of the difficulty pointed out.

With the above observation Lord Salisbury has authorized me to sign the text of the seven Articles and of the Joint Commission Articles referred to in my note of the 23rd ultimo, and it will give me much pleasure to wait upon you at the State Department for that purpose at any time that you may appoint.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 191.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 23.)

[Telegraphic.]

WASHINGTON, *December 22, 1891.*

The question of the number of Arbitrators was reopened to-day by Mr. Blaine.

He stated that he was of opinion, as was also the President, that seven was too large a number, and that it would suffice, as three are to be appointed by foreign Governments, if the United States and Great Britain should each appoint one. He was anxious that the above consideration should be urged on your Lordship, and he expressed the hope that efforts might be made to expedite as much as possible the remaining arrangements.

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No. 192.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 28.)

WASHINGTON, *December 15, 1891.*

MY LORD: With reference to my telegram of yesterday, I have the honour to inclose copy of a note which I have received from Mr. Blaine, in which he states that the President objects to your Lordship making any reservation at all in regard to the Behring's Sea Arbitration Agreement; together with a copy of the reply which I have returned thereto.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 192.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, December 14, 1891.*

SIR: I have the honour to advise you that I submitted your note of the 11th instant to the President. After mature deliberation, he has instructed me to say that he objects to Lord Salisbury making any reservation at all, and that he cannot yield to him the right to appeal to the Arbitrators to decide any point not embraced in the Articles of Arbitration. The President does not admit that Lord Salisbury can reserve the right in any way to affect the decision of the Arbitrators. We understand that the arbitration is to proceed on the seven points which are contained in the Articles which you and I certify were the very points agreed upon by the two Governments.

For Lord Salisbury to claim the right to submit this new point to the Arbitrators is to entirely change the arbitration. The President might, in like manner, submit several questions to the Arbitrators, and thus enlarge the subject to such an extent that it would not be the same arbitration to which we have agreed. The President claims the right to have the seven points arbitrated, and respectfully insists that Lord Salisbury shall not change their meaning in any particular. The matters to be arbitrated must be distinctly understood before the Arbitrators are chosen. And, after an arbitration is agreed to, neither of the parties can enlarge or contract its scope.

I am prepared now, as I have been heretofore, to sign the Articles of Agreement without any reservation whatever, and for that purpose I shall be glad to have you call at the State Department on Wednesday, the 16th instant, at 11 o'clock A. M.

I have, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 192.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *December 15, 1891.*

SIR: I have the honour to acknowledge the receipt of your note of yesterday's date, in reply to mine of the 11th instant, respecting the signature of the seven Articles of the proposed Behring's Sea Arbitration Agreement therein referred to.

I will transmit a copy of that reply to the Marquis of Salisbury by to-day's mail, but I beg to state that, pending his Lordship's further instructions, it is not in my power to proceed to the signature of the Articles in question, as proposed at the close of your note.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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134 No. 193.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 28.)

WASHINGTON, *December 18, 1891.*

MY LORD: Immediately on receipt of your Lordship's telegram of the 16th instant I addressed a note to Mr. Blaine, of which I have the honour to inclose a copy, and I delivered it to him in person yesterday.

After reading it, he at once made an appointment for this morning at 11 to sign the text of the seven Articles of the Behring's Sea Arbitration Agreement and of the Joint Commission Agreement, as settled in the diplomatic correspondence.

Accordingly, I proceeded to the State Department at the appointed time, and, after the usual verification, the document was signed in duplicate by Mr. Blaine and myself.

I shall have the honour to transmit a copy of it to your Lordship by this mail in a separate despatch.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 193.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *December 17, 1891.*

SIR: I have the honour to inform you that I conveyed to the Marquis of Salisbury, by telegram, the substance of your note of the 14th instant respecting the 6th Article of the proposed Behring's Sea Arbitration Agreement, and that I have received a reply from his Lordship in the following sense.

Lord Salisbury is afraid that, owing to the difficulties incident to telegraphic correspondence, he has been imperfectly understood by the President. He consented, at the President's request, to defer for the present all further discussion as to what course the two Governments should follow in the event of the Regulations prescribed by the Arbitrators being evaded by a change of flag. It was necessary that, in doing so, he should guard himself against the supposition, that by such consent he had narrowed the rights of the contending parties or of the Arbitrators under the Agreement. But in the communication which was embodied in my note of the 11th instant, his Lordship made no reservation, as the President seems to think, nor was any such word used. A reservation would not be valid unless assented to by the other side, and no such assent was asked for. Lord Salisbury entirely agrees with the President in his objection to any point being submitted to the Arbitrators which is not embraced in the Agreement, and, in conclusion, his Lordship authorizes me to sign the Articles of the Arbitration Agreement, as proposed at the close of your note under reply, whenever you may be willing to do so.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 194.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 28.)

WASHINGTON, *December 18, 1891.*

MY LORD: With reference to my immediately preceding despatch of to-day, I have the honour to inclose herewith the text of the seven Articles of the Behring's Sea Arbitration Agreement and of the Joint Commission Article, as signed by Mr. Blaine and myself.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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135 [Inclosure in No. 194.]

Text of Articles for insertion in the Behring's Sea Arbitration Agreement as settled in the Diplomatic Correspondence between the Government of Great Britain and the Government of the United States.

I.

What exclusive jurisdiction in the sea, now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

II.

How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

III.

Was the body of water, now known as the Behring's Sea, included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring's Sea, were held and exclusively exercised by Russia after said Treaty?

IV.

Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

V.

Has the United States any right, and, if so, what right of protection or property in the fur-seals frequenting the islands of the United States in Behring's Sea when such seals are found outside the ordinary three-mile limit?

VI.

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and, to aid them in that determination, the Report of a Joint Commission, to be appointed by the respective Governments, shall be laid before them, with such other evidence as either Government may submit.

The Contracting Powers furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations.

VII.

The respective Governments having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it; and, being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

(Signed) JAMES G. BLAINE.
JULIAN PAUNCEFOTE.

DECEMBER 18, 1891.

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136 *Text of the Behring's Sea Joint Commission Agreement as settled in the Diplomatic Correspondence between the Government of Great Britain and the Government of the United States.*

Each Government shall appoint two Commissioners to investigate conjointly with the Commissioners of the other Government all the facts having relation to seal life in Behring's Sea, and the measures necessary for its proper protection and preservation.

The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

These Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise.

(Signed) JULIAN PAUNCEFOTE.
JAMES G. BLAINE.

DECEMBER 18, 1891.

No. 195.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *December 29, 1891.*

Your telegram of the 22nd instant.

You should make it clear to Mr. Blaine that Her Majesty's Government urge the appointment of seven Arbitrators.

No. 196.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *December 30, 1891.*

Behring's Sea.

I have been asked by Sir G. Baden-Powell to ascertain whether any date can be fixed for the meeting of the Joint Commission.

He is ready to start on the 6th January if necessary.

No. 197.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 4.)

[Telegraphic.]

WASHINGTON, *January 2, 1892.*

With reference to your Lordship's telegram of the 30th ultimo, relative to the Behring's Sea Joint Commission, Mr. Blaine has no objection to its meeting at the earliest date which may be permitted by the other public duties of the American Commissioners. What that date will be he hopes to be in a position to inform me on the 4th instant.

No. 198.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 4, 1892.)

WASHINGTON, *December 23, 1891.*

MY LORD: I have the honour to inclose herewith Census Bulletin No. 123 relative to the fishing industry of the United States connected with marine mammalia.*

The business pursued by the Alaska Commercial Company is not given in the Report.

Exclusive of the operations of this Company, it appears that the capital invested in the fur-seal and sea-otter fishery in 1889 was 152,757 dollars; the value of the products landed in the same industry
137 was 124,983 dollars; the number of persons engaged, 422. Of the fur-seal and otter fleet, 11 vessels hailed from San Francisco, 7 from Port Townsend, Washington; 1 from Santa Barbara, California; and 1 from Salem, Massachusetts.

Of the employés, 285 were natives of the United States, 5 of Canada, 18 of Great Britain, 29 of Japan, and 51 of Norway and Sweden.

The number of the fur-seal skins taken was 228.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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* Not printed.

No. 199.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 4.)

[Telegraphic.]

WASHINGTON, *January 4, 1892.*

With reference to my telegram of the 2nd instant, I have the honour to state that I was informed to-day by Mr. Blaine that the President cannot consent to the meeting of the Joint Commission until a definite settlement has been arrived at as to the remaining details of the Arbitration Agreement, which formed the subject of my telegram of the 2nd instant.

No. 200.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 13.)

[Telegraphic.]

WASHINGTON, *January 13, 1892.*

I have the honour to inform your Lordship that Mr. Blaine is now most anxious for the immediate meeting of the Joint Commission, and begs that instructions may be sent to the two British Commissioners to proceed with as little delay as possible to Washington, which, in his opinion, taking all the circumstances into consideration, is the most convenient place of meeting. I should be glad to be informed whether Sir George Baden-Powell has left for America.

No. 201.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 14.)

[Telegraphic.]

WASHINGTON, *January 14, 1892.*

Behring's Sea Joint Commission.

I think it of the greatest importance that Sir G. Baden-Powell and Dr. Dawson should be authorized to proceed to Washington at once. I will telegraph to Lord Stanley, begging him to request the latter gentleman to hold himself in readiness to start.

No. 202.

Foreign Office to Sir G. Baden-Powell.

FOREIGN OFFICE, *January 14, 1892.*

SIR: I am directed by the Marquis of Salisbury to inform you that Sir J. Pauncefote has reported, by telegraph, that the United States Government are now anxious that the Joint Commission should commence its sittings at once.

It is therefore desirable that you should proceed to Washington as soon as you conveniently can.

I am, &c. (Signed) T. V. LISTER.

138 No. 203.

The Marquis of Salisbury to the Behring's Sea Commissioners.

FOREIGN OFFICE, *January 15, 1892.*

GENTLEMEN: I have to inform you that Her Majesty's Minister at Washington has sent home the text of seven Articles, signed by himself and Mr. Blaine on the 18th ultimo, which are to be embodied in a formal Agreement between Her Majesty's Government and that of the United States for referring to Arbitrators certain questions at issue between the two Governments in regard to the jurisdiction claimed by the latter over the waters of Behring's Sea in connection with the fur-seal fisheries therein.

Sir J. Pauncefote has also forwarded the text of an Agreement signed on the same day for the appointment of two Commissioners by Her Majesty's Government and that of the United States respectively, to investigate, conjointly with the Commissioners of the other Government, all the facts relating to seal life in Behring's Sea, and the necessary measures for its proper protection and preservation.

A copy of Sir J. Pauncefote's despatch, inclosing both of these documents, is forwarded herewith for your information.*

I now transmit the Queen's Commission under the Sign Manual appointing you to be Her Majesty's Commissioners in accordance with the provisions of the Joint Commission Agreement, and I request that you will proceed to Washington as soon as you can conveniently do so, in order to draw up the Report indicated in the second paragraph of the Agreement.

The information which has been obtained by your American colleagues and yourselves during your recent visit to Behring's Sea will supply you with material for the preparation of your Report.

There are, however, a few points to which Her Majesty's Government consider it desirable that your special attention should be directed.

You will observe that it is intended that the Report of the Joint Commissioners shall embrace recommendations as to all measures that should be adopted for the preservation of seal life. For this purpose, it will be necessary to consider what Regulations may seem advisable, whether within the jurisdictional limits of the United States and Canada, or outside those limits. The Regulations which the Commissioners may recommend for adoption within the respective jurisdictions of the two countries will, of course, be matter for the consideration of the respective Governments, while the Regulations affecting waters outside the territorial limits will have to be considered under clause 6 of the Arbitration Agreement in the event of a decision being given by the Arbitrators against the claim of exclusive jurisdiction put forward on behalf of the United States.

The Report is to be presented in the first instance to the two Governments for their consideration, and is subsequently to be laid by those Governments before the Arbitrators to assist them in determining the more restricted question as to what, if any, Regulations are essential for the protection of the fur-bearing seals outside the territorial jurisdiction of the two countries.

In the event of any points arising on which the Commissioners are unable to arrive at an understanding, they should report jointly or severally to each Government on such points.

* No. 194.

In conclusion, I have to state that Her Majesty's Government place every reliance on your tact and discretion in the conduct of your investigations with your American colleagues, who will, no doubt, be equally desirous with yourselves of arriving at a common agreement on the questions to be discussed.

I am, &c. (Signed) SALISBURY.

No. 204.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received February 1.)

[Telegraphic.]

WASHINGTON, *February 1, 1892.*

Arrived Washington with Dawson 31st January.

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139 No. 205.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 1.)

[Telegraphic.]

WASHINGTON, *February 1, 1892.*

I have the honour to inform your Lordship that Sir George Baden-Powell and Dr. Dawson have arrived here. I called with them to-day on Mr. Blaine, who promised that the place and time of meeting of the Joint Commission should be arranged at once.

No. 206.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 7.)

WASHINGTON, *January 29, 1892.*

MY LORD: I have the honour to inclose herewith copy of a note which I addressed to Mr. Blaine, informing him of the acceptance by Her Majesty's Government of his proposal that the Behring's Sea foreign Arbitrators shall be chosen by France, Italy, and Sweden.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 206.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *January 21, 1892.*

SIR: I have the honour to inform you that immediately after my interview with you on the 15th instant in regard to the question of the countries who are to name the Arbitrators in the Behring's Sea controversy, I telegraphed to the Marquis of Salisbury that you did not insist on the knowledge of English by the Arbitrators as a condition, but merely as a desirable qualification.

I have now received a telegram from his Lordship, stating that Her Majesty's Government accept your proposal that the Arbitrators shall be chosen by France, Italy, and Sweden.

I have, &c. (Signed) JULIAN PAUNCEFOTE.

No. 207.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 8.)

[Telegraphic.]

WASHINGTON, *February 8, 1892.*

I forwarded, by bag, on the 5th instant, for your Lordship's approval, a draft Behring's Sea Arbitration Convention which has been proposed by Mr. Blaine. The Joint Commission is embodied in it, and Mr. Blaine insists that the proceedings of the Joint Commissioners shall be informal until it is signed. After much delay, they meet to-day for the first time. A *modus vivendi* during the next fishery season is pressed for by Mr. Blaine, and he hopes that Her Majesty's Government will be prepared to put into force any Regulations which may be recommended by the Joint Commission for immediate application.

No. 208.

Behring's Sea Commissioners to the Marquis of Salisbury.—(Received February 10.)

[Telegraphic.]

WASHINGTON, *February 9, 1892.*

We beg to report, for your Lordship's information, that we have commenced to hold meetings of an informal nature with the American Commissioners, clearing the ground where possible, but until the
140 Arbitration Convention is signed we have decided that it is not expedient to commence formal work, or exhibit any of the conclusions at which we have arrived.

No. 209.

Colonial Office to Foreign Office.—(Received February 10.)

[Extract.]

DOWNING STREET, *February 10, 1892.*

I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 9th instant, inclosing paraphrase of a telegram from Her Majesty's Minister at Washington respecting the Behring's Sea negotiations.

Lord Knutsford desires me to state that he thinks it desirable, if the Marquis of Salisbury sees no objection, to consult the Canadian Government as to the proposals for a renewal of the *modus vivendi*, and the enforcement of such Regulations as the Joint Commission may recommend for immediate application.

No. 210.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received February 11.)

OTTAWA, *January 29, 1892.*

MY LORD: We have the honour to acknowledge the receipt of your Lordship's despatch of the 15th instant, inclosing the Queen's Commission under the Sign Manual appointing us to be Her Majesty's Commissioners in accordance with the provisions of the Joint Commission Agreement of the 18th December, 1891, between Her Majesty's Government and that of the United States.

We are not aware whether the United States Commissioners have as yet been appointed, but we were informed on the 28th instant by Sir Julian Pauncefote that Mr. Blaine agrees to the meeting of the Joint Commission on the 1st February.

We are therefore proceeding at once to Washington, where we will endeavour to the best of our ability to carry out the instructions embodied in your Lordship's despatch under acknowledgment.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 211.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received February 11.)

WASHINGTON, *February 1, 1892.*

MY LORD: We have the honour to report that we arrived here on the evening of Sunday, the 31st January.

We called on Sir Julian Pauncefote the same evening, and he courteously arranged for an interview with the Secretary of State on Monday, the 1st February.

This morning Sir J. Pauncefote formally introduced us to Mr. Blaine, who told us that he would at once make the necessary arrangements for us to meet our fellow Commissioners, but he did not anticipate that a meeting could take place before Wednesday, the 3rd instant.

We took the opportunity of explaining that we were fully prepared to commence work to-day.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

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141 No. 212.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 15.)

[Extract.]

WASHINGTON, *February 4, 1892.*

As I had the honour to report in my despatch of the 29th ultimo, I informed Mr. Blaine, in a note dated the 21st ultimo, that Her Majesty's Government had accepted his proposal, that the three foreign members of the Behring's Sea Arbitration Tribunal should be chosen by France, Italy, *and Sweden.*

On the 30th ultimo, not having received any further communication from Mr. Blaine on the subject, I addressed a note to him (of which a copy is inclosed), inquiring whether he was now prepared to proceed at once to the preparation and signature of the Arbitration Convention.

On the 2nd instant Mr. Blaine invited me to call on him, when he placed in my hands the draft of a Convention which he requested me to examine, and which is based on the Arbitration Articles of the Treaty of Washington, and incorporates the Articles already signed, and also the Joint Commission Agreement.

It was arranged that I should go over the draft the following day with Mr. Alvey A. Adee (Second Assistant Secretary of State), by whom it had been prepared, so that it should be put into such a form as I should approve before submitting it to your Lordship. I accordingly had several interviews with Mr. Adee, at which I suggested various alterations which were adopted, and I now have the honour to inclose a copy of the draft, as amended, for your Lordship's consideration.*

The reason assigned for including the Joint Commission Agreement in the Arbitration Convention is that, as it entails an expenditure of public money, it must be laid before the Senate, as well as the Arbitration Convention, and it is more convenient that the whole arrangement should be comprised in the same instrument.

If your Lordship should approve substantially of the draft, Mr. Blaine suggests that it would save a great deal of time if I were instructed, by telegraph, to sign the Convention (with such modifications as your Lordship may desire) *nunc pro tunc*, and without awaiting the arrival of my full powers, which can be communicated later on.

[Inclosure in No. 212.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *January 30, 1892.*

SIR: All the details of the Behring's Sea Arbitration having now been finally settled by the understanding arrived at as to the Governments who shall be invited to select the three foreign Arbitrators, I have the honour to request you to be good enough to inform me whether you are prepared to proceed at once to the preparation and signature of the formal Arbitration Convention and of the Joint Commission Agreement, in accordance with the text of the Articles to be inserted therein, which was signed by us on the 18th December last.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 213.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 15.)

WASHINGTON, *February 5, 1892.*

MY LORD: At the interview which I had with Mr. Blaine on the subject of the draft Arbitration Convention transmitted in my previous despatch of this date, he strongly pressed upon me the impor-
142 tance of being prepared to put in force during the next fishery season in Behring's Sea such Regulations as might be recommended by the Joint Commission which is about to commence its sittings in Washington.

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* For Convention as signed, see No. 248.

He observed that it was now quite certain that the arbitration would not be concluded for many months, and no time, therefore, should be lost in devising another *modus vivendi*, to take effect from the expiration of the present one.

In answer to his inquiry as to the power of Her Majesty's Government to put in force any Regulations which might temporarily be agreed upon, I stated that for such purpose it would be necessary to have recourse again to Parliament.

He then requested me to invite your Lordship's immediate attention to the importance of taking immediate powers for that purpose, as the sealing fleets were already reported to be clearing out.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 214.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *February 16, 1892.*

The draft Convention, inclosed in your despatch of the 5th instant, for referring to arbitration the questions at issue between Her Majesty's Government and that of the United States in connection with the seal fisheries in Behring's Sea, has been referred to the Law Officers of the Crown, who have been asked to furnish a Report on its terms at their earliest convenience.

Her Majesty's Government cannot express an opinion upon Mr. Blaine's proposal for a fresh *modus vivendi* during the present year until they are further informed as to what the provisions of the *modus vivendi* are to be. It does not seem to be at all necessary for the preservation of the fur-seal species that sealing should be entirely prohibited.

No. 215.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 18.)

[Telegraphic.]

WASHINGTON, *February 17, 1892.*

With reference to your Lordship's telegram of the 16th instant, Mr. Blaine presses that the question of the *modus vivendi* should be considered and reported on by the Joint Commission. I have informed him that, in my opinion, it has no power to do so under its present mandate. Will your Lordship inform me whether you are willing that the necessary authority shall be given to the Commission, provided that no obligations will be imposed upon either Government by its report?

No. 216.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *February 18, 1892.*

Her Majesty's Government have had under their consideration Mr. Blaine's proposal, reported in your telegram of yesterday, that the Joint Commission should examine and report on the question of arranging a fresh *modus vivendi* during the next seal-fishing season in Behring's Sea.

They have no objection to its being considered by the Commission whether, in case the decision of the Arbitrators is not obtained before June on the points to be submitted to them, any *modus vivendi* will be necessary, and, in that case, what should be its provisions.

Her Majesty's Government must, however, reserve absolutely their right of action in respect to any recommendations that may be made by the Commissioners.

In the present state of Parliamentary business, it seems unlikely that it would be possible to obtain any fresh powers from Parliament.

143 "The Seal Fishery (Behring's Sea) Act, 1891," is still in force, but it only gives power to prohibit sealing in Behring's Sea by Order in Council within limits and for a period to be specified in the Order itself.

You should communicate to the Canadian Government the substance of your telegram of the 17th instant, and of my reply.

No. 217.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *February 20, 1892.*

Her Majesty's Government have had under their consideration the draft of a Convention, forwarded with your despatch of the 4th instant, for arbitration on the question of the seal fisheries in Behring's Sea.

They are prepared to accept it, subject to certain amendments which I have telegraphed to you.

No. 218.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received February 25.)

ARLINGTON HOTEL, *Washington, February 12, 1892.*

MY LORD: In continuation of our despatch of the 1st instant, we have the honour to report that after informing the Secretary of State of our readiness to commence work on the Joint Commission on the 1st February we received no further intimation as to our conferences until Sir Julian Pauncefote communicated to us the information that in let-

ters dated the 4th and 6th February Mr. Blaine had pointed out to him that we could not proceed officially to the discharge of our duties or formulate our Reports until the Arbitration Convention was signed, but that he would interpose no objection to our holding preliminary and informal conferences.

2. On the 8th February we accordingly held our first preliminary conference, and much preparatory work was got through. It was then arranged to hold a second conference on the 11th instant.

3. The decision on Mr. Blaine's suggestion that, pending the signature of the Arbitration Convention, the meetings of the Joint Commission were to be informal, we communicated to your Lordship on the 9th instant, in a telegram of which a paraphrase is inclosed herewith.

4. On the 10th February, however, Sir J. Pauncefote received and communicated to us a further letter from the Secretary of State, dated the previous day, in which Mr. Blaine unexpectedly took up quite a new position, stating that the United States Commissioners had now been instructed to make known to us their readiness formally to arrange for a joint conference, and proceed without further delay to the discharge of the duties assigned to them.

5. We ventured to suggest to Sir Julian Pauncefote that in view of the strong opinion expressed by Mr. Blaine in his letters of the 4th and 6th February it might be well if notes were exchanged between the two Governments, declaring that all work and conferences of the Joint Commission undertaken before the signing of the Arbitration Convention would be regarded by them as formal and efficient in character.

6. On Thursday, the 11th instant, after consultation with Sir J. Pauncefote, we held the second conference, at which we communicated our respective powers, and decided to regard that and future meetings as formal pending the signing of the Arbitration Convention, and on the understanding that the respective Governments have so determined.

7. We have now decided to meet *de die in diem*, and there seems to be every prospect of our progressing well with our work.

8. The United States Government have very courteously provided accommodation for our conferences in rooms at the State Department.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

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144 No. 219.

*Lord Stanley of Preston to Lord Knutsford.**—(*Received February 24.*)

[Telegraphic.]

OTTAWA, *February 23, 1892.*

With reference to your telegram of the 16th instant respecting the *modus vivendi* in Behring's Sea, my Ministers do not possess any information to show that a *modus vivendi* is necessary, or that it can be reasonably demanded. If, however, such information has reached Her Majesty's Government, the Government of the Dominion would not oppose such a *modus vivendi* provided that it were confined to a zone of moderate limits, say, 25 miles, around the seal islands, and provided that it is accompanied by stringent restrictions against the killing of

* Repeated to Sir J. Pauncefote.

seals on land, with better supervision than during the *modus vivendi* of last year. Any arrangement of a more extended character would involve compensation to the sealing-vessels, and for this, of course, Canada could not be expected to make provision from the funds of the Dominion.

No. 220.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received February 25.*)

[Telegraphic.]

WASHINGTON, *February 25, 1892.*

Behring's Sea *modus vivendi.*

With reference to your Lordship's telegram of the 16th instant, I have informed Mr. Blaine that your Lordship could not give an opinion until you learned what *modus vivendi* was proposed.

Following is the substance of a note which I have received in reply:

The arbitration cannot possibly be concluded within the period of time which was contemplated originally. The delays which have occurred have been much more by Great Britain than by the United States.

The President suggests that the *modus* should be similar in terms to that of last year, but that it should be more fully executed. More efficient measures on the part of Her Majesty's Government will be practicable this year owing to the earlier date. More seals than ever were taken last year, the departure of the sealing-vessels having taken place previous to the agreement as to the *modus vivendi.* The prevention of sealing in the North Pacific Ocean would be the most effective measure for Her Majesty's Government to adopt. The large number of sealers preparing to go forth from British Columbia would have to receive notice of this. The number of sealers is reported to be larger than ever, and without regulations there will be an immense destruction of females heavy with young.

Mr. Blaine urgently requests me to send the contents of the note to your Lordship by telegraph. I have not yet mentioned the question of authorizing the Joint Commission to report on the *modus vivendi* on the conditions mentioned in your Lordship's telegram of the 18th instant.

No. 221.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received February 26.*)

[Telegraphic.]

WASHINGTON, *February 26, 1892.*

My telegram of yesterday.

Mr. Blaine specially desires me to telegraph to your Lordship *verbatim* the following paragraph contained in his note of the 24th instant respecting the *modus vivendi:*

> Holding an arbitration in regard to the rightful mode of taking seals, while their destruction goes forward, would be as if while an arbitration to the title to timberland were in progress, one party were to cut remove all the trees.

He attaches much importance to this illustration.

No. 222.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received February 27.*)

[Telegraphic.]

WASHINGTON, *February 26, 1892.*

With reference to your Lordship's telegram of the 25th instant, the opinion of the British Behring's Sea Commissioners as to a *modus vivendi* may be convenient to your Lordship at this juncture. They report as follows:

145 We do not apprehend any danger of serious further depletion of the fur-seal resorting to the Pribyloff Islands, as the result of hunting this year, unless excessive killing be permitted on the breeding islands. As a judicious temporary measure of precaution, however, for this season, and looking to permanent regulations for the fishery as a whole being established in time for the season of 1893, we would recommend the prohibition of all killing at sea during this season, within a zone extending to, say, not more than 30 nautical miles around the Pribyloff Islands, such prohibition being conditional on the restriction to a number not to exceed 30,000 as a maximum of the seals killed for any purpose on the islands.

I believe that the necessity for the total cessation of pelagic sealing will be insisted on by the American Commissioners, if the question be referred to the Joint Commission; but I submit that it is not necessary for us to go beyond the opinion of our own experts, pending arbitration.

No. 223.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *February 27, 1892.*

Her Majesty's Government have had under their consideration your telegrams of the 25th and 26th instant, dealing with the question of the *modus vivendi* proposed by Mr. Blaine for the approaching seal-hunting season.

They cannot admit in any degree the correctness of Mr. Blaine's statement that there have been greater delays on the part of this country in the negotiations for settling the Behring's Sea difficulty than there have been on that of the United States.

The consent of Her Majesty's Government was given last year to a *modus vivendi* solely on the ground that the preservation of the seal species in those waters was supposed to be endangered unless some interval were given during which there would be a cessation of hunting both on land and sea.

No information has reached Her Majesty's Government to lead them to suppose that so drastic a measure is requisite for two successive seasons.

Indeed, they are informed by the British members of the Joint Commission now sitting at Washington that there is no danger, so far as the sea fishery is concerned, of any serious diminution of the numbers of the fur-seal species as a consequence of hunting them during the approaching season.

You are, however, authorized to offer to the Government of the United States the compromise suggested by the British Commissioners, and reported in your telegram of the 26th instant, viz., that during the

present year the killing of seals at sea should be prohibited within a given radius not exceeding 30 nautical miles round the Pribyloff Islands on condition that the number of seals to be killed for any purpose on the islands shall be restricted to a definite amount, not exceeding 30,000 at the utmost. A speedy decision is necessary, as we are informed that the sealing vessels are already leaving port.

Mr. Blaine's comparison of the present situation to a question of ownership of timber land does not appear to me to be applicable. The case resembles rather an arbitration on the title to a meadow. While the arbitration is pending the party in actual possession cuts the grass, and rightly so, inasmuch as next year the grass will be reproduced. This will equally be the case with the seals.

No. 224.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 28.)

[Telegraphic.]

WASHINGTON, *February 26, 1892.*

I am requested by Mr. Blaine to inform your Lordship that he has received the following Report from the United States Consul at Victoria: "Forty-six sealing vessels cleared to date. Six or seven more to go. At the same date last year only thirty-one cleared."

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146 No. 225.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 28.)

[Telegraphic.]

WASHINGTON, *February 27, 1892.*

The Convention will be signed on Monday, at 11 A. M.

No. 226.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 1.)

WASHINGTON, *February 18, 1892.*

MY LORD: I have the honour to inclose herewith copies of a correspondence which has taken place between Mr. Blaine and myself on the subject of the Behring's Sea Joint Commission.

Your Lordship will remember that the British Commissioners were summoned to Washington at the request of Mr. Blaine, who, after having persistently refused to agree to the meeting of the Joint Commission until after the signature of the Arbitration Convention, informed me on the 13th January (as I had the honour to report to your Lordship by telegraph on the same day) that he was now anxious that the Commission should sit at once, and he proposed Washington as the most convenient place of meeting. Accordingly Sir George Baden-Powell,

who was then in England, started by the first opportunity for New York, and, after visiting Ottawa, arrived in Washington with his Canadian colleague, Dr. Dawson, on the 31st ultimo. On the following day (Monday, the 1st instant) I presented them formally to Mr. Blaine at the State Department as the British Commissioners, and I understood from him that they would be placed immediately in communication with their American colleagues with a view to proceeding at once with the business of the Joint Commission.

It was not, however, until the evening of Friday, the 5th, that I received a note from Mr. Blaine informing me of the formal appointment of the American Commissioners, and stating that as soon as he should have been "officially advised" by me of the appointment of Commissioners on the part of the British Government, the United States Commissioners would be ready to confer with them "informally," but that until the Arbitration Convention should have been signed, the Commissioners would not be expected to agree upon or formulate any Report. This communication, which I received with surprise under the circumstances above mentioned, led to the correspondence which I have the honour to inclose, from which your Lordship will perceive that Mr. Blaine ultimately agreed that the Commission should proceed formally to business. But the first meeting of the Commission did not take place until the 15th instant, and a whole fortnight was lost by delays, for which it appears to me that the United States Government are alone responsible.

I beg to draw your Lordship's particular attention to Mr. Blaine's remarks in his letter of the 6th February on the selection of Commissioners made by Her Majesty's Government, and I trust that the answer which I returned to that letter will meet with your Lordship's approval.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 226.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, February 4, 1892.*

SIR; I have the honour to inform you that the President has this day appointed and commissioned Thomas Corwin Mendenhall and Clinton Hart Merriam to act as Commissioners on the part of the Government of the United States in accordance with the Agreement which I signed with you on the 18th December, 1891, to investigate and report, conjointly with Commissioners to be appointed by the British Government, upon the facts having relation to the preservation of seal life in Behring's Sea, and the measures necessary for its protection and preservation, with a view to the submission of their conclusions to the Board of Arbitrators, whose constitution has already been agreed upon by us.

Until the Convention for Arbitration shall have been signed the Commissioners will not be expected to agree upon or formulate any Reports, but after I shall be officially advised by you of the appointment of Commissioners on the part of
147 the British Government, the Commissioners on the part of the United States will hold themselves ready to confer informally with their British colleagues at such time as may suit their convenience.

I have, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 226.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 6, 1892.*

SIR: I have the honour to acknowledge the receipt of your note dated the 4th February (but only delivered yesterday evening), in which you inform me that the President has appointed Mr. Mendenhall and Mr. Merriam Commissioners, on the part of the Government of the United States, on the Joint Commission therein referred to.

Sir George Baden-Powell and Professor Dawson, whom I had the honour to present to you on the 1st instant, have been duly appointed Commissioners on the part of Her Majesty's Government, and, as I have already stated to you verbally, they are furnished with their credentials in due form.

On the 13th ultimo, at your request, I communicated to the Marquis of Salisbury, by telegraph, your desire that the British Commissioners should proceed at once to Washington. Accordingly, Sir G. Baden-Powell left England for that purpose by the first steamer, and arrived here with Dr. Dawson on the 1st of the month. They have been awaiting ever since to be placed in communication with the United States Commissioners, and I trust that arrangements will be made for the meeting of the Commission on Monday next for the purpose indicated in the last paragraph of your note under reply, although the British Commissioners came prepared, not for an informal conference, but to proceed officially to business.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 3 in No. 226.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, February 6, 1892.*

SIR: I am in receipt of your note of this date, in which you give me the official notification of the appointment of Sir G. Baden-Powell and Professor Dawson as Commissioners on the part of the British Government on the Joint Commission created in view of the proposed fur-seal Arbitration.

In acknowledging your note, I deem it important to direct your attention to the fact that the Government of the United States, in nominating the Commissioners on its part, selected gentlemen who were especially fitted by their scientific attainments, and who were in no wise disqualified for an impartial investigation and determination of the questions to be submitted to them by a public declaration of opinion previous or subsequent to their selection. It is to be regretted that a similar course does not seem to have been adopted by the British Government. It appears, from a document which you transmitted to me under date of the 9th March, 1890 (Inclosure 4), that one of the gentlemen selected by your Government to act as a Commissioner on its part has fully committed himself in advance on all the questions which are to [be?] submitted to him for investigation and decision.

I am further informed that the other gentleman named in your note had, previous to his selection, made public his views on the subject; and that very recently he has announced, in an address to his Parliamentary constituents, that the result of the investigation of this Commission and of the proposed Arbitration would be in favour of his Government.

I trust, however, that these circumstances will not impair the candid and impartial investigation and determination which was the object had in view in the creation of the Commission, and that the result of its labours may greatly promote an equitable and mutually satisfactory adjustment of the questions at issue.

The Commissioners on the part of the United States have been instructed to put themselves in communication with the British Commissioners to tender them
148 an apartment at the Department of State for the joint conference, and, if it shall suit their convenience, to agree with them upon an hour for their first conference on Monday next, the 9th instant.

It is proper to add that, when I indicated to you on the 13th ultimo that the British Commissioner then in London might come at once to Washington, I supposed that we should before this date have signed the Arbitration Convention, and thus have enabled the Commissioners to proceed officially to a discharge of their duties. But as it became necessary to await the approval of the draft of that instrument, which you have forwarded to London, I have interposed no objection to preliminary conferences of the Commissioners, anticipating the signature of the Convention *within* a very brief period.

I have, &c. (Signed) JAMES G. BLAINE.

[Inclosure 4 in No. 226.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 8, 1892.*

SIR: I have the honour to acknowledge the receipt of your note of the 6th instant, in which you observe upon the selection made by our respective Governments of the members of the Joint Commission which is about to sit at Washington for the purpose of investigating and reporting upon the facts having relation to seal life in Behring's Sea with a view to the proposed Arbitration.

The second paragraph of your note contains the following passage:

"I deem it important to direct your attention to the fact that the Government of the United States, in nominating the Commissioners on its part, selected gentlemen who were especially fitted by their scientific attainments, and who were in no wise disqualified for an impartial investigation and determination of the questions to be submitted to them by a public declaration of opinion previous or subsequent to their selection. It is to be regretted that a similar course does not seem to have been adopted by the British Government."

While I have much pleasure in congratulating your Government on having secured on their side the services of two such distinguished gentlemen as Professor Mendenhall and Dr. Merriam, I must express my surprise and regret that you should have thought fit to refer in terms of disparagement to the choice made by Her Majesty's Government.

The British Commissioners, Sir G. Baden-Powell and Dr. Dawson, are gentlemen whose scientific attainments and special qualifications for the duties intrusted to them are too well known to require any vindication on my part. But you complain of the fact that Dr. Dawson in 1890 wrote a paper on the protection of the fur-seal in the North Pacific, in which he committed himself to certain views. This shows that he has made the subject his special study, and it appears to me that he is all the more qualified on that account to take part in the labours of the Joint Commission, which, I beg leave to point out, is not a Board of Arbitration, but one of Investigation.

Dr. Dawson's note on the fur-seal, to which you refer, was merely based upon such published material as was at the time available, and I have his authority for stating that he does not feel himself in any way bound to the opinions expressed from the study of that material, in the light of subsequent personal investigation on the ground.

You likewise complain that Sir George Baden-Powell had, previously to his selection as Commissioner, made public his views on the subject, and also that he is reported to have stated in an address to his Parliamentary constituents that the result of the investigation of the Joint Commission and of the proposed Arbitration would be in favour of his Government. Sir G. Baden-Powell is particularly qualified to take part in the inquiry by reason of his personal investigation into the industrial part of the question which he pursued in 1887 and 1889 in San Francisco and British Columbia. From the first he has advocated in all his public statements a full inquiry into the facts of seal life in Behring's Sea before any final agreement should be arrived at, in order that the views of all parties should be tested as to the best method of protecting seal life. There is no just ground, therefore, for charging him with partiality. As regards the language imputed to him on the occasion of an address which he recently delivered to his constituents in England on the labour question, it appears that some introductory remarks, in which he referred to the Behring's Sea question, were inaccurately reported. What he did state was
149 that, thanks to the arrangement arrived at between the two Governments, the Behring's Sea difficulty would now be settled in the true interests of all concerned, and not of any one side or the other.

I may mention that the opinions of Professor Mendenhall and Dr. Merriam on the fur-seal question were published in several journals in this country shortly after their return from Behring's Sea, and were stated (I know not with what accuracy) to be opposed to the views which have been urged on the side of Her Majesty's Government.

But I do not suggest that the United States Commissioners on that account are disqualified from taking part in the labours of the Joint Commission; I claim that all the Commissioners, British and American, are equally entitled to the confidence of both Governments as men of science, honour, and impartiality.

The course which has been adopted for ascertaining what measures may be necessary for the protection of the fur-seal species is substantially the same as that which I had the honour to propose to you, on behalf of Her Majesty's Government, nearly two years ago in the form of a draft Convention, inclosed in my note of the 29th April, 1890.

I rejoice that the proposal I then made is now to be carried out, and I cordially unite in the hope, expressed in your note under reply, that the result of the labours of the Joint Commission will promote an equitable and mutually satisfactory adjustment of the questions at issue.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 5 in No. 226.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, February 9, 1892.*

SIR: I have been informed by the American Seal Commissioners that, in an informal meeting with their British colleagues yesterday, the latter expressed an unwillingness to enter upon conferences of any other than an official character, and they therefore proposed that their joint conferences be postponed until after the Arbitration Convention shall have been signed.

I beg to state to you that the Government of the United States is very anxious to expedite as much as possible the consideration of the important questions submitted to the Commissioners; and in view of the fact that it regards the Arbitration Convention as substantially agreed upon, the American Commissioners have been instructed to make known to the British Commissioners their readiness to formally arrange the joint conference and proceed without further delay to the discharge of the duties assigned to them.

I have, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 6 in No. 226.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 11, 1892.*

SIR: I had the honour to receive yesterday your note of the 9th instant, in which you state that you have been informed by the American Seal Commissioners that, in an informal meeting with their British colleagues on the 8th instant, the latter expressed an unwillingness to enter upon conferences of any other than an official character, and they therefore proposed that their joint conferences be postponed until after the Arbitration Convention has been signed.

The British Commissioners, to whom I communicated your note, have informed me that, at the preliminary conference of the Commissioners on the 8th instant, they discussed with their colleagues what work of a preparatory character could be got through at once. The meeting was informal, according to the conditions laid down in the last paragraph of your note to me on the 4th instant; and it was arranged by the Commissioners to hold a second preliminary conference this day at the State Department, at 3 o'clock, at which they could discuss certain matters which they had undertaken to consider in the interval, and to do other preparatory work.

150 In consequence of your note of the 9th instant, the British Commissioners hope, at the conference to-day, to arrange with their colleagues that the joint conference shall proceed to business formally.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 227.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 1.)

WASHINGTON, *February 18, 1892.*

MY LORD: With reference to my preceding despatch of to-day, relating to the Behring's Sea Joint Commission, I have the honour to inclose copies of an informal note which I received from Mr. Blaine on the 12th

instant respecting the refusal of the British Commissioners to deal with the question of a *modus vivendi*, and of the reply which I returned thereto. Also a copy of a letter addressed to me on the 13th instant by the British Commissioners, inquiring whether the Commission is authorized to consider and report on measures of seal preservation within the territorial jurisdiction of either Power.

I took the opportunity of a visit to the State Department on Monday, the 15th instant, to show the last-mentioned letter to Mr. Blaine, who, after reading it, expressed his surprise that, looking at the wide terms of the Joint Commission Agreement, the Commissioners should entertain any doubt as to the scope of their powers; and he suggested that they should all be invited to meet him and me at the State Department the following morning to explain their difficulty. The meeting accordingly took place, but all discussion was rendered unnecessary by the announcement that the American Commissioners had, since the date of the letter, arrived at the conclusion that they were free to consider all measures, even though they might relate to matters within national jurisdiction.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 227.]

Mr. Blaine to Sir J. Pauncefote.

17, MADISON PLACE, *Washington, February 12, 1892.*

MY DEAR SIR JULIAN: The motive you have always urged upon me for assembling the Commissioners on Seal Fisheries at an early date was that they could provide a *modus vivendi* that would be sufficient, while the Arbitration should go on with plenty of time to consider the various points.

I was surprised to hear that your Commissioners yesterday declined to discuss the *modus vivendi*, on the allegation that that was a subject reserved for you and me. This puts an entirely new phase upon the work of the Commission, and largely diminishes its value.

Will you have the goodness to advise me of the precise scope of the work which you have assigned to your Commissioners?

Very truly, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 227.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 13, 1892.*

DEAR MR. BLAINE: In reply to your letter of yesterday, I beg to state that, in my opinion, the British Commissioners are right in holding that they have no power under their present mandate to discuss the question of a *modus vivendi* for the next fishery season. Their authority is limited by the terms of the Joint Commission Agreement, the text of which we signed on the 18th December last. That
151 authority is confined to reporting their views on what Fishery Regulations of a permanent character may be necessary with a view to arbitration. The question of a *modus vivendi* pending the result of the Arbitration is one for the two Governments to discuss. I have certainly urged, as an additional reason for the early meeting of the Joint Commission, that its Reports would furnish our Governments with valuable materials for such discussion; but it can hardly be contended that the Commissioners can properly deal with such a question without special authority from their respective Governments. I communicated to Lord Salisbury the proposal you made to me at our interview of the 2nd instant, that our two Governments should agree to a *modus vivendi*, and I am awaiting his Lordship's reply.

Very truly, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 3 in No. 227.]

The Behring's Sea Commissioners to Sir J. Pauncefote.

ARLINGTON HOTEL, *Washington, February 13, 1892.*

SIR: We have the honour to inform you that our colleagues on the Behring's Sea Joint Commission have to-day explained to us that their original letter of instructions has now lapsed, and that they have no further instructions than those contained in the text of their Commission.

We are now holding daily conferences, and are anxious not to waste time by discussing matters outside the scope of our mutual instructions, which should, we presume, be identical.

We agreed with our colleagues to ask whether you would obtain from the Secretary of State information as to whether the United States Commissioners are, like ourselves, authorized to consider, and, if they see fit, to report in favour of, measures of seal preservation in general, or whether they are restricted to measures outside the territorial jurisdiction of either Power.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 228.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 1.)

[Telegraphic.]

WASHINGTON, *February 29, 1892.*

Behring's Sea. The Arbitration Convention was signed by Mr. Blaine and myself this morning. Is it desired by your Lordship that the exchange of ratifications should take place in Washington or in London?

No. 229.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *March 1, 1892.*

In reply to your telegram of the 29th ultimo, the exchange of ratifications of the Behring's Sea Convention could be carried out more expeditiously if made in London than at Washington. You should telegraph when the Convention is approved by the Senate.

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152 No. 230.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *March 3, 1892.*

SIR: I have received your despatch of the 18th ultimo, inclosing copies of correspondence with Mr. Blaine in regard to the meeting of the Joint Commissioners appointed under the Agreement of the 18th December last to report on the facts having relation to the preservation of seal life in Behring's Sea.

Your proceedings, as reported in that despatch, and the terms of your note to Mr. Blaine of the 8th February, are approved by Her Majesty's Government.

I am, &c. (Signed) SALISBURY.

No. 231.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 5.)

WASHINGTON, *February 23, 1892.*

MY LORD: I have the honour to report that on the 15th instant the President issued the usual Behring's Sea Proclamation in the same terms as heretofore.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 231.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A Proclamation.

The following provisions of the Laws of the United States are hereby published for the information of all concerned:

Section 1956, Revised Statutes, Chapter 3, Title 23, enacts that: "No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offence, be fined not less than 200 nor more than 1,000 dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant any special privileges under this section."

Section 3 of the Act entitled "An Act to provide for the Protection of the Salmon Fisheries of Alaska," approved March 2, 1889, provides that:

"Section 3. That section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominion of the United States in the waters of Behring's Sea; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation and cause the same to be published for one month in at least one newspaper, if any such there be, published at each United States port of entry on the Pacific coast, warning all persons against entering said waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruize said waters and arrest all persons, and seize all vessels found to be, or to have been, engaged in any violation of the laws of the United States therein."

Now, therefore, I, Benjamin Harrison, President of the United States, pursuant to the above recited Statutes, hereby warn all persons against entering the waters of Behring's Sea within the dominion of the United States for the purpose of violating the provisons of said section 1956, Revised Statutes; and I hereby proclaim
153 that all persons found to be, or to have been, engaged in any violation of the laws of the United States in said waters will be arrested and punished as above provided, and that all vessels so employed, their tackle, apparel, furniture, and cargoes, will be seized and forfeited.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 15th day of February, 1892, and of the Independence of the United States the 116th.

(Signed) BENJ. HARRISON.

By the President:

(Signed) JAMES G. BLAINE, *Secretary of State.*

No. 232.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received March 5.)

[Telegraphic.]

WASHINGTON, *March 4, 1892.*

We have to-day, 4th March, signed our Joint Report.
Unless instructed to remain, we shall leave Washington next week.

No. 233.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 7.)

WASHINGTON, *February 26, 1892.*

MY LORD: With reference to my telegram of yesterday, I have the honour to inclose copies of the notes exchanged between Mr. Blaine and myself on the subject of the *modus vivendi* therein referred to.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 233.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 19, 1892.*

SIR: On the occasion of our interview on the 2nd instant, when you handed me the draft of the Behring's Sea Arbitration Convention, which I forwarded to London for the consideration of Her Majesty's Government, you asked me whether they were prepared to agree to a *modus vivendi* for the next fishery season in Behring's Sea. In transmitting the draft of the Arbitration Convention to the Marquis of Salisbury I did not fail to inform him of your inquiry, and I have now received a reply from his Lordship to the effect that Her Majesty's Government cannot express any opinion on the subject until they know what *modus vivendi* you desire to propose.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 2 in No. 233.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, February 24, 1892.*

SIR: I am in receipt of your note of the 19th. You therein inform me that Lord Salisbury cannot express any opinion on the subject of the *modus vivendi* until he knows what we desire to propose.

I am glad to hear that Lord Salisbury contemplates a *modus*, for it is obvious that it is impossible to conclude the Arbitration within the time originally set. Indeed, we shall hardly be able to enter upon it. The delays have been much greater on the part of Great Britain than on the part of the United States.

In reply to your inquiry, the President suggests that the *modus* should be much the same as last year in terms, but that it should be better executed. It was
154 very ineffective last year, for there was a larger number of seals in Behring's Sea taken then than ever before. The vessels had already set out before the *modus* was agreed to, and it was impossible to give them notice in time to avoid their taking seals. Her Majesty's Government did not take such efficient measures as an earlier date this year will render practicable.

If Her Majesty's Government would make their efforts most effective, the sealing in the North Pacific Ocean should be forbidden, for there the slaughter of the mothers heavy with young is the greatest. This would require a notice to the large number of sealers which are preparing to go forth from British Columbia. The number is said to be greater than ever before, and without any law to regulate the killing of seals the destruction will be immense. All this suggests the great need of an effective *modus*. Holding an Arbitration in regard to the rightful mode of taking seals while their destruction goes forward would be as if, while an Arbitration to the title to timber-land were in progress, one party should remove all the trees.

I shall have to ask you to transmit the contents of this note to Lord Salisbury by telegraph. Every day that is lost now entails great trouble upon both Governments.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 234.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 9, 11.15 a. m.)

[Telegraphic.]

WASHINGTON, *March 8, 1892.*

The Acting Secretary of State has to-day delivered to me on behalf of Mr. Blaine (who is unwell) a note on the subject of the renewal of the *modus vivendi*, with a request from the President that I should telegraph it to your Lordship. I accordingly send a full summary:

[For text of the Note see Inclosure 1 in Sir J. Pauncefote's despatch of March 10: *infra*, No. 243.]

No. 235.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *March 9, 1892, 6.30 p. m.*

I should wish you to repeat to Lord Stanley your telegram of yesterday, about Behring's Sea.

No. 236.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 9, 10.30 p. m.)

[Telegraphic.]

WASHINGTON, *March 9, 1892.*

Behring's Sea Convention sent to Senate yesterday, and referred to Committee on Foreign Affairs.

[Inclosure 2 in No. 226.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 6, 1892.*

SIR: I have the honour to acknowledge the receipt of your note dated the 4th February (but only delivered yesterday evening), in which you inform me that the President has appointed Mr. Mendenhall and Mr. Merriam Commissioners, on the part of the Government of the United States, on the Joint Commission therein referred to.

Sir George Baden-Powell and Professor Dawson, whom I had the honour to present to you on the 1st instant, have been duly appointed Commissioners on the part of Her Majesty's Government, and, as I have already stated to you verbally, they are furnished with their credentials in due form.

On the 13th ultimo, at your request, I communicated to the Marquis of Salisbury, by telegraph, your desire that the British Commissioners should proceed at once to Washington. Accordingly, Sir G. Baden-Powell left England for that purpose by the first steamer, and arrived here with Dr. Dawson on the 1st of the month. They have been awaiting ever since to be placed in communication with the United States Commissioners, and I trust that arrangements will be made for the meeting of the Commission on Monday next for the purpose indicated in the last paragraph of your note under reply, although the British Commissioners came prepared, not for an informal conference, but to proceed officially to business.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 3 in No. 226.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, February 6, 1892.*

SIR: I am in receipt of your note of this date, in which you give me the official notification of the appointment of Sir G. Baden-Powell and Professor Dawson as Commissioners on the part of the British Government on the Joint Commission created in view of the proposed fur-seal Arbitration.

In acknowledging your note, I deem it important to direct your attention to the fact that the Government of the United States, in nominating the Commissioners on its part, selected gentlemen who were especially fitted by their scientific attainments, and who were in no wise disqualified for an impartial investigation and determination of the questions to be submitted to them by a public declaration of opinion previous or subsequent to their selection. It is to be regretted that a similar course does not seem to have been adopted by the British Government. It appears, from a document which you transmitted to me under date of the 9th March, 1890 (Inclosure 4), that one of the gentlemen selected by your Government to act as a Commissioner on its part has fully committed himself in advance on all the questions which are to [be?] submitted to him for investigation and decision.

I am further informed that the other gentleman named in your note had, previous to his selection, made public his views on the subject; and that very recently he has announced, in an address to his Parliamentary constituents, that the result of the investigation of this Commission and of the proposed Arbitration would be in favour of his Government.

I trust, however, that these circumstances will not impair the candid and impartial investigation and determination which was the object had in view in the creation of the Commission, and that the result of its labours may greatly promote an equitable and mutually satisfactory adjustment of the questions at issue.

The Commissioners on the part of the United States have been instructed to put themselves in communication with the British Commissioners to tender them
148 an apartment at the Department of State for the joint conference, and, if it shall suit their convenience, to agree with them upon an hour for their first conference on Monday next, the 9th instant.

It is proper to add that, when I indicated to you on the 13th ultimo that the British Commissioner then in London might come at once to Washington, I supposed that we should before this date have signed the Arbitration Convention, and thus have enabled the Commissioners to proceed officially to a discharge of their duties. But as it became necessary to await the approval of the draft of that instrument, which you have forwarded to London, I have interposed no objection to preliminary conferences of the Commissioners, anticipating the signature of the Convention *within* a very brief period.

I have, &c. (Signed) JAMES G. BLAINE.

[Inclosure 4 in No. 226.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 8, 1892.*

SIR: I have the honour to acknowledge the receipt of your note of the 6th instant, in which you observe upon the selection made by our respective Governments of the members of the Joint Commission which is about to sit at Washington for the purpose of investigating and reporting upon the facts having relation to seal life in Behring's Sea with a view to the proposed Arbitration.

The second paragraph of your note contains the following passage:

"I deem it important to direct your attention to the fact that the Government of the United States, in nominating the Commissioners on its part, selected gentlemen who were especially fitted by their scientific attainments, and who were in no wise disqualified for an impartial investigation and determination of the questions to be submitted to them by a public declaration of opinion previous or subsequent to their selection. It is to be regretted that a similar course does not seem to have been adopted by the British Government."

While I have much pleasure in congratulating your Government on having secured on their side the services of two such distinguished gentlemen as Professor Mendenhall and Dr. Merriam, I must express my surprise and regret that you should have thought fit to refer in terms of disparagement to the choice made by Her Majesty's Government.

The British Commissioners, Sir G. Baden-Powell and Dr. Dawson, are gentlemen whose scientific attainments and special qualifications for the duties intrusted to them are too well known to require any vindication on my part. But you complain of the fact that Dr. Dawson in 1890 wrote a paper on the protection of the fur-seal in the North Pacific, in which he committed himself to certain views. This shows that he has made the subject his special study, and it appears to me that he is all the more qualified on that account to take part in the labours of the Joint Commission, which, I beg leave to point out, is not a Board of Arbitration, but one of Investigation.

Dr. Dawson's note on the fur-seal, to which you refer, was merely based upon such published material as was at the time available, and I have his authority for stating that he does not feel himself in any way bound to the opinions expressed from the study of that material, in the light of subsequent personal investigation on the ground.

You likewise complain that Sir George Baden-Powell had, previously to his selection as Commissioner, made public his views on the subject, and also that he is reported to have stated in an address to his Parliamentary constituents that the result of the investigation of the Joint Commission and of the proposed Arbitration would be in favour of his Government. Sir G. Baden-Powell is particularly qualified to take part in the inquiry by reason of his personal investigation into the industrial part of the question which he pursued in 1887 and 1889 in San Francisco and British Columbia. From the first he has advocated in all his public statements a full inquiry into the facts of seal life in Behring's Sea before any final agreement should be arrived at, in order that the views of all parties should be tested as to the best method of protecting seal life. There is no just ground, therefore, for charging him with partiality. As regards the language imputed to him on the occasion of an address which he recently delivered to his constituents in England on the labour question, it appears that some introductory remarks, in which he referred to the Behring's Sea question, were inaccurately reported. What he did state was
149 that, thanks to the arrangement arrived at between the two Governments, the Behring's Sea difficulty would now be settled in the true interests of all concerned, and not of any one side or the other.

I may mention that the opinions of Professor Mendenhall and Dr. Merriam on the fur-seal question were published in several journals in this country shortly after their return from Behring's Sea, and were stated (I know not with what accuracy) to be opposed to the views which have been urged on the side of Her Majesty's Government.

But I do not suggest that the United States Commissioners on that account are disqualified from taking part in the labours of the Joint Commission; I claim that all the Commissioners, British and American, are equally entitled to the confidence of both Governments as men of science, honour, and impartiality.

The course which has been adopted for ascertaining what measures may be necessary for the protection of the fur-seal species is substantially the same as that which I had the honour to propose to you, on behalf of Her Majesty's Government, nearly two years ago in the form of a draft Convention, inclosed in my note of the 29th April, 1890.

I rejoice that the proposal I then made is now to be carried out, and I cordially unite in the hope, expressed in your note under reply, that the result of the labours of the Joint Commission will promote an equitable and mutually satisfactory adjustment of the questions at issue.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 5 in No. 226.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, February 9, 1892.*

SIR: I have been informed by the American Seal Commissioners that, in an informal meeting with their British colleagues yesterday, the latter expressed an unwillingness to enter upon conferences of any other than an official character, and they therefore proposed that their joint conferences be postponed until after the Arbitration Convention shall have been signed.

I beg to state to you that the Government of the United States is very anxious to expedite as much as possible the consideration of the important questions submitted to the Commissioners; and in view of the fact that it regards the Arbitration Convention as substantially agreed upon, the American Commissioners have been instructed to make known to the British Commissioners their readiness to formally arrange the joint conference and proceed without further delay to the discharge of the duties assigned to them.

I have, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 6 in No. 226.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 11, 1892.*

SIR: I had the honour to receive yesterday your note of the 9th instant, in which you state that you have been informed by the American Seal Commissioners that, in an informal meeting with their British colleagues on the 8th instant, the latter expressed an unwillingness to enter upon conferences of any other than an official character, and they therefore proposed that their joint conferences be postponed until after the Arbitration Convention has been signed.

The British Commissioners, to whom I communicated your note, have informed me that, at the preliminary conference of the Commissioners on the 8th instant, they discussed with their colleagues what work of a preparatory character could be got through at once. The meeting was informal, according to the conditions laid down in the last paragraph of your note to me on the 4th instant; and it was arranged by the Commissioners to hold a second preliminary conference this day at the State Department, at 3 o'clock, at which they could discuss certain matters which they had undertaken to consider in the interval, and to do other preparatory work.

150 In consequence of your note of the 9th instant, the British Commissioners hope, at the conference to-day, to arrange with their colleagues that the joint conference shall proceed to business formally.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 227.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 1.)

WASHINGTON, *February 18, 1892.*

MY LORD: With reference to my preceding despatch of to-day, relating to the Behring's Sea Joint Commission, I have the honour to inclose copies of an informal note which I received from Mr. Blaine on the 12th

instant respecting the refusal of the British Commissioners to deal with the question of a *modus vivendi*, and of the reply which I returned thereto. Also a copy of a letter addressed to me on the 13th instant by the British Commissioners, inquiring whether the Commission is authorized to consider and report on measures of seal preservation within the territorial jurisdiction of either Power.

I took the opportunity of a visit to the State Department on Monday, the 15th instant, to show the last-mentioned letter to Mr. Blaine, who, after reading it, expressed his surprise that, looking at the wide terms of the Joint Commission Agreement, the Commissioners should entertain any doubt as to the scope of their powers; and he suggested that they should all be invited to meet him and me at the State Department the following morning to explain their difficulty. The meeting accordingly took place, but all discussion was rendered unnecessary by the announcement that the American Commissioners had, since the date of the letter, arrived at the conclusion that they were free to consider all measures, even though they might relate to matters within national jurisdiction.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 227.]

Mr. Blaine to Sir J. Pauncefote.

17, MADISON PLACE, *Washington, February 12, 1892.*

MY DEAR SIR JULIAN: The motive you have always urged upon me for assembling the Commissioners on Seal Fisheries at an early date was that they could provide a *modus vivendi* that would be sufficient, while the Arbitration should go on with plenty of time to consider the various points.

I was surprised to hear that your Commissioners yesterday declined to discuss the *modus vivendi*, on the allegation that that was a subject reserved for you and me. This puts an entirely new phase upon the work of the Commission, and largely diminishes its value.

Will you have the goodness to advise me of the precise scope of the work which you have assigned to your Commissioners?

Very truly, &c.

(Signed) JAMES G. BLAINE.

[Inclosure 2 in No. 227.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 13, 1892.*

DEAR MR. BLAINE: In reply to your letter of yesterday, I beg to state that, in my opinion, the British Commissioners are right in holding that they have no power under their present mandate to discuss the question of a *modus vivendi* for the next fishery season. Their authority is limited by the terms of the Joint Commission Agreement, the text of which we signed on the 18th December last. That
151 authority is confined to reporting their views on what Fishery Regulations of a permanent character may be necessary with a view to arbitration. The question of a *modus vivendi* pending the result of the Arbitration is one for the two Governments to discuss. I have certainly urged, as an additional reason for the early meeting of the Joint Commission, that its Reports would furnish our Governments with valuable materials for such discussion; but it can hardly be contended that the Commissioners can properly deal with such a question without special authority from their respective Governments. I communicated to Lord Salisbury the proposal you made to me at our interview of the 2nd instant, that our two Governments should agree to a *modus vivendi*, and I am awaiting his Lordship's reply.

Very truly, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 3 in No. 227.]

The Behring's Sea Commissioners to Sir J. Pauncefote.

ARLINGTON HOTEL, *Washington, February 13, 1892.*

SIR: We have the honour to inform you that our colleagues on the Behring's Sea Joint Commission have to-day explained to us that their original letter of instructions has now lapsed, and that they have no further instructions than those contained in the text of their Commission.

We are now holding daily conferences, and are anxious not to waste time by discussing matters outside the scope of our mutual instructions, which should, we presume, be identical.

We agreed with our colleagues to ask whether you would obtain from the Secretary of State information as to whether the United States Commissioners are, like ourselves, authorized to consider, and, if they see fit, to report in favour of, measures of seal preservation in general, or whether they are restricted to measures outside the territorial jurisdiction of either Power.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 228.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 1.)

[Telegraphic.]

WASHINGTON, *February 29, 1892.*

Behring's Sea. The Arbitration Convention was signed by Mr. Blaine and myself this morning. Is it desired by your Lordship that the exchange of ratifications should take place in Washington or in London?

No. 229.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *March 1, 1892.*

In reply to your telegram of the 29th ultimo, the exchange of ratifications of the Behring's Sea Convention could be carried out more expeditiously if made in London than at Washington. You should telegraph when the Convention is approved by the Senate.

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152 No. 230.

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, *March 3, 1892.*

SIR: I have received your despatch of the 18th ultimo, inclosing copies of correspondence with Mr. Blaine in regard to the meeting of the Joint Commissioners appointed under the Agreement of the 18th December last to report on the facts having relation to the preservation of seal life in Behring's Sea.

Your proceedings, as reported in that despatch, and the terms of your note to Mr. Blaine of the 8th February, are approved by Her Majesty's Government.

I am, &c. (Signed) SALISBURY.

No. 231.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 5.)

WASHINGTON, *February 23, 1892.*

MY LORD: I have the honour to report that on the 15th instant the President issued the usual Behring's Sea Proclamation in the same terms as heretofore.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 231.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A Proclamation.

The following provisions of the Laws of the United States are hereby published for the information of all concerned:

Section 1956, Revised Statutes, Chapter 3, Title 23, enacts that: "No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offence, be fined not less than 200 nor more than 1,000 dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant any special privileges under this section."

Section 3 of the Act entitled "An Act to provide for the Protection of the Salmon Fisheries of Alaska," approved March 2, 1889, provides that:

"Section 3. That section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominion of the United States in the waters of Behring's Sea; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation and cause the same to be published for one month in at least one newspaper, if any such there be, published at each United States port of entry on the Pacific coast, warning all persons against entering said waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruize said waters and arrest all persons, and seize all vessels found to be, or to have been, engaged in any violation of the laws of the United States therein."

Now, therefore, I, Benjamin Harrison, President of the United States, pursuant to the above recited Statutes, hereby warn all persons against entering the waters of Behring's Sea within the dominion of the United States for the purpose of violating the provisons of said section 1956, Revised Statutes; and I hereby proclaim
153 that all persons found to be, or to have been, engaged in any violation of the laws of the United States in said waters will be arrested and punished as above provided, and that all vessels so employed, their tackle, apparel, furniture, and cargoes, will be seized and forfeited.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 15th day of February, 1892, and of the Independence of the United States the 116th.

(Signed) BENJ. HARRISON.

By the President:

(Signed) JAMES G. BLAINE, *Secretary of State.*

No. 232.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received March 5.)

[Telegraphic.]

WASHINGTON, *March 4, 1892.*

We have to-day, 4th March, signed our Joint Report.
Unless instructed to remain, we shall leave Washington next week.

No. 233.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 7.)

WASHINGTON, *February 26, 1892.*

MY LORD: With reference to my telegram of yesterday, I have the honour to inclose copies of the notes exchanged between Mr. Blaine and myself on the subject of the *modus vivendi* therein referred to.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 1 in No. 233.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 19, 1892.*

SIR: On the occasion of our interview on the 2nd instant, when you handed me the draft of the Behring's Sea Arbitration Convention, which I forwarded to London for the consideration of Her Majesty's Government, you asked me whether they were prepared to agree to a *modus vivendi* for the next fishery season in Behring's Sea. In transmitting the draft of the Arbitration Convention to the Marquis of Salisbury I did not fail to inform him of your inquiry, and I have now received a reply from his Lordship to the effect that Her Majesty's Government cannot express any opinion on the subject until they know what *modus vivendi* you desire to propose.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure 2 in No. 233.]

Mr. Blaine to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, February 24, 1892.*

SIR: I am in receipt of your note of the 19th. You therein inform me that Lord Salisbury cannot express any opinion on the subject of the *modus vivendi* until he knows what we desire to propose.

I am glad to hear that Lord Salisbury contemplates a *modus*, for it is obvious that it is impossible to conclude the Arbitration within the time originally set. Indeed, we shall hardly be able to enter upon it. The delays have been much greater on the part of Great Britain than on the part of the United States.

In reply to your inquiry, the President suggests that the *modus* should be much the same as last year in terms, but that it should be better executed. It was
154 very ineffective last year, for there was a larger number of seals in Behring's Sea taken then than ever before. The vessels had already set out before the *modus* was agreed to, and it was impossible to give them notice in time to avoid their taking seals. Her Majesty's Government did not take such efficient measures as an earlier date this year will render practicable.

If Her Majesty's Government would make their efforts most effective, the sealing in the North Pacific Ocean should be forbidden, for there the slaughter of the mothers heavy with young is the greatest. This would require a notice to the large number of sealers which are preparing to go forth from British Columbia. The number is said to be greater than ever before, and without any law to regulate the killing of seals the destruction will be immense. All this suggests the great need of an effective *modus*. Holding an Arbitration in regard to the rightful mode of taking seals while their destruction goes forward would be as if, while an Arbitration to the title to timber-land were in progress, one party should remove all the trees.

I shall have to ask you to transmit the contents of this note to Lord Salisbury by telegraph. Every day that is lost now entails great trouble upon both Governments.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 234.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 9, 11.15 a. m.)

[Telegraphic.]

WASHINGTON, *March 8, 1892.*

The Acting Secretary of State has to-day delivered to me on behalf of Mr. Blaine (who is unwell) a note on the subject of the renewal of the *modus vivendi*, with a request from the President that I should telegraph it to your Lordship. I accordingly send a full summary:

[For text of the Note see Inclosure 1 in Sir J. Pauncefote's despatch of March 10: *infra*, No. 243.]

No. 235.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *March 9, 1892, 6.30 p. m.*

I should wish you to repeat to Lord Stanley your telegram of yesterday, about Behring's Sea.

No. 236.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 9, 10.30 p. m.)

[Telegraphic.]

WASHINGTON, *March 9, 1892.*

Behring's Sea Convention sent to Senate yesterday, and referred to Committee on Foreign Affairs.

No. 237.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 10.)

WASHINGTON, *March 1, 1892.*

MY LORD: With reference to the question of the renewal of the *modus vivendi* in Behring's Sea, I have the honour to inclose copy of the note which, upon receipt of your Lordship's telegram of the 27th ultimo, I addressed to Mr. Blaine on the subject.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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155 [Inclosure in No. 237.]

Sir J. Pauncefote to Mr. Blaine.

WASHINGTON, *February 29, 1892.*

SIR: Immediately upon the receipt of your note of the 24th instant, respecting a renewal of the *modus vivendi* in Behring's Sea, and in accordance with the wish therein expressed, I telegraphed its contents to the Marquis of Salisbury.

In that note, after observing that it is impossible to conclude the Arbitration within the time originally set, and that the delays have been much greater on the part of Great Britain than on the part of the United States, you proceed to inform me that in the view of the President the new *modus vivendi* should be much the same as that of last year in terms; that owing to the earlier date this year it could be more effectively executed; but that "if Her Majesty's Government would make their efforts most effective, the sealing in the North Pacific Ocean should be forbidden."

After pointing out "the great need of an effective *modus*," you state that "holding an Arbitration in regard to the rightful mode of taking seals while their destruction goes forward, would be as if, while an Arbitration to the title to timber-land were in progress, one party should remove all the trees."

I have the honour to inform you that I have received a reply from Lord Salisbury to the following effect:

In the first place, his Lordship states that he cannot in any degree admit that the delays have been greater on the part of Great Britain than on the part of the United States.

As regards the necessity for another *modus vivendi*, Her Majesty's Government consented to that measure last year solely on the ground that it was supposed that there would be danger to the preservation of the seal species in Behring's Sea unless some interval in the slaughter of seals were prescribed both at sea and on land. But Her Majesty's Government have received no information to show that so drastic a remedy is necessary for two consecutive seasons. On the contrary, the British Commissioners on the Behring's Sea Joint Commission have informed Her Majesty's Government that, so far as pelagic sealing is concerned, there is no danger of any serious diminution of the fur-seal species as a consequence of this year's hunting.

Nevertheless, Lord Salisbury would not object, as a temporary measure of precaution for this season, to the prohibition of all killing at sea within a zone extending to not more than 30 nautical miles around the Prybiloff Islands, such prohibition being conditional on the restriction of the number of seals to be killed for any purpose on the islands to a maximum of 30,000.

Lord Salisbury, referring to the passage in your note in which you compare the case to an Arbitration about timber-land from which the trees are being removed by one of the parties, observes that he hardly thinks the simile quite apposite. His Lordship suggests that the case is more like one of Arbitration respecting the title to a meadow. While the Arbitration is in progress, he adds, we cut the grass, and quite rightly, for the grass will be reproduced next year, and so will the seals.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 238.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received March 10.)

[Telegraphic.]

WASHINGTON, *March 9, 1892.*

With reference to the *modus vivendi*, I am of opinion that the taking of one season's limited crop cannot injure the seal herd, but that, although not necessary, the renewal of last year's prohibition and the 7,500 limit would be beneficial.

As the Arbitration Convention conditions ocean rights, I hope that the Canadian Government has warned the British Columbian sealers that the ultimate ownership of the seals taken this year in Behring's Sea depends upon the verdict of the Arbitrators.

The alternatives for the sealers appear to be either to incur the expense of the catch subject to this risk, or to forego, without compensation, one season's catch of, say, 20,000 (in Behring's Sea), on condition that 7,500 instead of 30,000 are taken on the islands, increased numbers of seals in future seasons, and enhanced prices for this spring, being also insured by such restrictions.

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156 No. 239.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 14.)

WASHINGTON, *March 4, 1892.*

MY LORD: I have the honour to inclose herewith the Behring's Sea Arbitration Convention, which was signed by Mr. Blaine and myself on the 29th February.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

[Inclosure in No. 239.]

Treaty between Her Majesty and the United States of America for Arbitration concerning the Seal Fisheries in Behring's Sea. Signed at Washington, February 29, 1892.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, being desirous to provide for an amicable settlement of the questions which have arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, have resolved to submit to arbitration the questions involved, and to the end of concluding a Convention for that purpose have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pauncefote, G. C. M. G., K. C. B., Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and the President of the United States of America, James G. Blaine, Secretary of State of the United States;

Who, after having communicated to each other their respective Full Powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

ARTICLE I.

The questions which have arisen between the Government of Her Britannic Majesty and the Government of the United States concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation

of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, shall be submitted to a Tribunal of Arbitration, to be composed of seven Arbitrators, who shall be appointed in the following manner, that is to say: two shall be named by her Britannic Majesty; two shall be named by the President of the United States; his Excellency the President of the French Republic shall be jointly requested by the High Contracting Parties to name one; His Majesty the King of Italy shall be so requested to name one; and His Majesty the King of Sweden and Norway shall be so requested to name one. The seven Arbitrators to be so named shall be jurists of distinguished reputation in their respective countries.

In case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or in the event of any or either of the said Arbitrators omitting or declining or ceasing to act as such, Her Britannic Majesty, or the President of the United States, or his Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, as the case may be, shall name, or shall be requested to name forthwith, another person to act as Arbitrator in the place and stead of the Arbitrator originally named by such head of a State.

And in the event of the refusal or omission for two months after receipt of the joint request from the High Contracting Parties of His Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, to name an Arbitrator, either to fill the original appointment or to fill a vacancy as above provided, then in such case the appointment shall be made or the vacancy shall be filled in such manner as the High Contracting Parties shall agree.

157 ARTICLE II.

The Arbitrators shall meet at Paris within twenty days after the delivery of the counter-cases mentioned in Article IV, and shall proceed impartially and carefully to examine and decide the questions that have been or shall be laid before them as herein provided on the part of the Governments of Her Britannic Majesty and the United States respectively. All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent to represent it generally in all matters connected with the arbitration.

ARTICLE III.

The printed case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding three months from the date of the exchange of the ratifications of this Treaty.

ARTICLE IV.

Within three months after the delivery on both sides of the printed case, either party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other party, a counter-case, and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other party.

If, however, in consequence of the distance of the place from which the evidence to be presented is to be procured, either party shall, within thirty days after the receipt by its Agent of the case of the other party, give notice to the other party that it requires additional time for the delivery of such counter-case, documents, correspondence, and evidence, such additional time so indicated, but not exceeding sixty days beyond the three months in this Article provided, shall be allowed.

If in the case submitted to the Arbitrators either party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after delivery of the case; and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding forty days after receipt of notice.

ARTICLE V.

It shall be the duty of the Agent of each party, within one month after the expiration of the time limited for the delivery of the counter-case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other party a printed argument showing the points and referring to the evidence upon which his Government relies, and either party may also support the same before the Arbitrators by oral argument of counsel; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or oral argument by counsel, upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

ARTICLE VI.

In deciding the matters submitted to the Arbitrators, it is agreed that the following five points shall be submitted to them, in order that their award shall embrace a distinct decision upon each of said five points, to wit:

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

158 2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring's Sea, were held and exclusively exercised by Russia after said Treaty?

4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. Has the United States any right, and, if so, what right, of protection or property in the fur-seals frequenting the islands of the United States in Behring Sea when such seals are found outside the ordinary 3-mile limit?

ARTICLE VII.

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determination, the Report of a Joint Commission, to be appointed by the respective Governments, shall be laid before them, with such other evidence as either Government may submit.

The High Contracting Parties furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations.

ARTICLE VIII.

The High Contracting Parties having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it; and, being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

ARTICLE IX.

The High Contracting Parties having agreed to appoint two Commissioners on the part of each Government to make the joint investigation and Report contemplated in the preceding Article VII, and to include the terms of the said Agreement in the present Convention, to the end that the joint and several Reports and recommendations of said Commissioners may be in due form submitted to the Arbitrators, should the contingency therefor arise, the said Agreement is accordingly herein included as follows:

Each Government shall appoint two Commissioners to investigate, conjointly with the Commissioners of the other Government, all the facts having relation to seal

life in Behring's Sea, and the measures necessary for its proper protection and preservation.

The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

These Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise.

ARTICLE X.

Each Government shall pay the expenses of its members of the Joint Commission in the investigation referred to in the preceding Article.

159 ARTICLE XI.

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States for his Government.

ARTICLE XII.

Each Government shall pay its own Agent and provide for the proper remuneration of the counsel employed by it and of the Arbitrators appointed by it, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE XIII.

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

ARTICLE XIV.

The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration, as a full, perfect, and final settlement of all the questions referred to the Arbitrators.

ARTICLE XV.

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate, at Washington, the 29th day of February, 1892.

[L. S.] JULIAN PAUNCEFOTE.
[L. S.] JAMES G. BLAINE.

No. 240.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

WASHINGTON, *March 15, 1892.*

I should wish you to repeat to the Governor-General the telegram I have received from Sir G. Baden-Powell, dated the 9th March.

No. 241.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *March 18, 1892.*

Her Majesty's Government have had under their consideration, and have consulted the Governor-General of Canada in regard to, the arguments in favour of a renewal of the *modus vivendi* of last year, contained in Mr. Wharton's note of the 8th instant, the substance of which is given in your telegram of that day. The necessity of reference to Ottawa has caused a delay in returning an answer.

The information which has reached Her Majesty's Government does not lead them to believe that, in order to prevent an undue diminution of the number of fur-seals, any necessity exists for the suspension of sealing for another year.

Beyond this question, however, I understand that the Government of the United States consider that, should free sealing be permitted this year, and the United States claim to jurisdiction in Behring's Sea be upheld by the Arbitrators, they have a right to be protected from the loss that they will have suffered by the sealing operations.

160 Her Majesty's Government do not dispute that there will be some foundation for this contention when the Arbitration Agreement has been ratified.

But there is this defect in the prohibition of all sealing as a remedy, that if the British contention shall be upheld by the Arbitrators, there may be ground for complaint on the part of the British sealers who will have been excluded from Behring's Sea.

Further, no security exists that the Arbitrators will have given their decision before the sealing season of 1893 arrives.

As you are aware, there has been an arbitration pending for four years between this country, the United States, and Portugal, which is not yet approaching conclusion.

Serious damage would be caused to the sealing industry by a suspension of hunting for a prolonged period.

As a more equitable arrangement, might it not be agreed that sealing-vessels shall be at liberty to hunt in Behring's Sea on condition that security is given by the owner of each vessel for satisfying the award of damages, if any, which the Arbitrators may eventually pronounce?

No. 242.

Lord Knutsford to Lord Stanley of Preston.

[Telegraphic.]

DOWNING STREET, *March 18, 1892.*

Please direct the proper port authority at all harbours on the Pacific coast to inform owners who are clearing or have cleared this year for Behring's Sea that her Majesty's Government and the United States Government have agreed, subject to the ratification of the Senate, to submit to arbitration the question whether sealers have a right, without permission of the United States, to seal in the eastern half of Behring's Sea, east of the Russian line, and that it is possible the sentence

of the said Tribunal may be given within the present fishing season. Moreover, that both Her Majesty's Government and the United States Government have made propositions for intermediate Regulations restraining the catch of seals in the said waters in case the said Arbitration Agreement should be ratified. Neither the Arbitration Agreement nor any intermediate Agreement have yet been definitively adopted between the two Governments, and whether they are adopted, and at what date, is necessarily a matter of uncertainty. But notice is hereby given to all sealers proposing to seal in the said waters that they do so at their own risk, and after warning of the liability to interruption to which they may be exposed in consequence of either of the said Agreements.

No. 243.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 21.)*

WASHINGTON, *March 10, 1892.*

MY LORD: With reference to my telegram of the 8th instant, I have the honour to inform your Lordship that I called by request at the State Department on Tuesday afternoon, where, owing to the illness of Mr. Blaine, I was received by Mr. Wharton, the Acting Secretary of State, who put into my hands a note, copy of which is inclosed herewith, containing the reply of the United States Government to my notes of the 29th ultimo and 7th instant respectively, on the subject of the renewal of the *modus vivendi* in Behring's Sea.

Mr. Wharton informed me at the same time that he had been instructed by the President to request me to telegraph the whole of this note to your Lordship.

I pointed out to Mr. Wharton that I could hardly telegraph *verbatim* a note of such great length, and he replied that he thought it would be sufficient to telegraph all the leading arguments contained in the note, which I promised I would do.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

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161 [Inclosure in No. 243.]

Acting Secretary Wharton to Sir J. Pauncefote.

DEPARTMENT OF STATE, *Washington, March 8, 1892.*

SIR: I am directed by the President to say, in response to your two notes of the 29th February and 7th March, that he notices with the deepest regret the indisposition of Her Majesty's Government to agree upon an effective *modus* for the preservation of the seals in the Behring's Sea pending the settlement of the respective rights of that Government and of the Government of the United States in these waters and in the fur-seal fisheries therein.

The United States claims an exclusive right to take seals in a portion of the Behring's Sea, while Her Majesty's Government claims a common right to pursue and take the seals in those waters outside a 3-mile limit. This serious and protracted controversy, it has now been happily agreed, shall be submitted to the determination of a Tribunal of Arbitration, and the Treaty only awaits the action of the American Senate. The judgment of the Arbitration Tribunal cannot, however, be reached and stated in time to control the conduct of the respective Governments and of their citizens during the sealing season of 1892; and the urgent question now

* Substance telegraphed.

is, What does good faith, to say nothing of international comity, require of the parties to the arbitration? If the contention of this Government is sustained by the Arbitrators, then any killing of seals by the Canadian sealers during this season in these waters is an injury to this Government in its jurisdiction and property. The injury is not measured by the skins taken, but affects the permanent value of our property.

Was it ever heard before that one party to such a controversy, whether a nation or an individual, could appropriate the whole or any part of the income and profits, much less the body of the contested property, pending the litigation, without accountability? Usually a Court of Chancery would place a receiver or trustee in charge, and hold the income of the property for the benefit of the prevailing party. You say that Lord Salisbury, rejecting the illustration used by Mr. Blaine, "suggests that the case is more like one of arbitration respecting title to a meadow. While the arbitration is going on we cut the grass; and quite rightly, for the grass will be reproduced next year, and so will the seals."

He can hardly mean by this illustration that, being in contention with a neighbour regarding the title to a meadow, he could by any precedent in the Equity Courts or by any standard of common honesty be justified in pocketing the whole or any part of the gains of a harvest without accountability to the adverse claimant whose exclusive title was afterwards established. It is no answer for the trespasser to say that the true owner will have an undiminished harvest next year. Last year's harvest was his also. If by the use of the plural pronoun his Lordship means that the harvest of the contested meadow is to be divided between the litigants, I beg to remind him that the title of the United States to the Pribyloff Islands has not yet been contested, and that our flag does not float over any sealing-vessel. The illustration is inapt in the further particular that the seals not taken this year may be taken next, while the grass must be harvested or lost.

This Government has already been advised in the course of this correspondence that Great Britain repudiates all obligations to indemnify the United States for any invasion of its jurisdiction, or any injury done to its sealing property by the Canadian sealers. The attempt to make a damage clause one of the Articles of the Arbitration Agreement failed, because Her Majesty's Government would not consent that the question of its liability to indemnify the United States for the injuries done by the Canadian sealers should be submitted. Two extracts from the correspondence will sufficiently recall the attitude of the respective Governments.

In my note of the 23rd July I said: "The President believes that Her Majesty's Government may justly be held responsible, under the attendant circumstances, for injuries done to the jurisdictional or property rights of the United States by the sealing-vessels flying the British flag, at least since the date when the right of these vessels to invade the Behring's Sea and to pursue therein the business of pelagic sealing was made the subject of diplomatic intervention by Lord Salisbury. In his opinion, justice requires that Her Majesty's Government should respond for the injuries done by those vessels, if their acts are found to have been wrongful, as fully as if each had borne a commission from the Government to do the act complained of. The presence of the master, or even of a third person, under circumstances calculated and intended to give encouragement, creates a liability for trespass at the common law, and much more, if his presence is accompanied with declarations of
162 right, protests against the defence which the owner is endeavouring to make, and a declared purpose to aid the trespassers if they are resisted. The justice of this rule is so apparent that it is not seen how, in the less technical Tribunal of an international arbitration, it could be held to be inapplicable.

"The United States might well insist that Her Majesty's Government should admit responsibility for the acts of the Canadian sealers, which it has so directly encouraged and promoted, precisely as in the proposal the United States admits responsibility for the acts of its revenue vessels. But, with a view to remove what seems to be the last point of difference in a discussion which has been very much protracted, the President is willing to modify his proposal, and directs me to offer the following:

"The Government of Great Britain having presented the claims of its subjects for compensation for the seizure of their vessels by the United States in Behring's Sea; and the Government of the United States having presented, on its own behalf as well as of the lessees of the privilege of taking seals on the Pribyloff Islands, claims for compensation by reason of the killing of seals in the Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claims in accordance with justice and equity, and the respective rights of the High Contracting Powers, and it shall be competent for the Arbitrators to award such compensation as, in their judgment, shall seem equitable."

In your note of the 17th October you say:

"I regret to inform you that Her Majesty's Government, after the fullest consideration, have arrived at the conclusion that this new clause could not properly be

assented to by them. In their opinion, it implies an admission of a doctrine respecting the liabilities of Governments for the acts of their nationals or other persons sailing under their flag on the high seas, for which there is no warrant in the law of nations. Thus it contains the following words:

"'The Government of the United States having presented on its own behalf, as well as of the lessees of the privilege of taking seals on the Pribyloff Islands, claims for compensation by reason of the killing of seals in Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claim.'

"These words involve the proposition that Her Majesty's Government are liable to make good losses resulting from the wrongful action of persons sailing outside their jurisdiction under the British flag. Her Majesty's Government could not accept such a doctrine."

The President cannot believe that, while holding this view of its accountability, the Government of Great Britain will, pending the arbitration, countenance, much less justify or defend, the continuance of pelagic sealing by its subjects. It should either assume responsibility for the acts of these sealers, or restrain them from a pursuit the lawfulness of which is to be determined by the arbitration.

In your note of the 29th February you state that Her Majesty's Government has been informed by the British Commissioners "that, so far as pelagic sealing is concerned, there is no danger of serious diminution of the fur-seal species as a consequence of this year's hunting," and upon this ground Lord Salisbury places his refusal to renew the *modus* of last year. His Lordship seems to assume a determination of the arbitration against the United States and in favour of Great Britain, and that it is already only a question of so regulating a common right to take seals as to preserve the species; by what right does he do this? Upon what principle does he assume that if our claims are established, any diminution of the seals, whether serious or not, during this season, or indeed, any taking of seals, is to be without recompense? In the opinion of the President, it is not consistent with good faith that either party to an arbitration should, pending a decision, in any degree diminish the value of the subject of arbitration or take any profit from the use of it without an agreement to account.

Before an agreement for arbitration had been reached, the prohibition of pelagic sealing was a matter of comity; from the moment of the signing of that Agreement it became, in his opinion, a matter of obligation.

During the season of 1891, notwithstanding the restrictions resulting from the *modus* adopted, the Canadian sealers took, in the Behring's Sea alone, 28,763 skins, or nearly four times as many as the restricted catch upon our island. This Government is now advised that fifty-one vessels from British Columbia and sixteen from Nova Scotia have sailed, or are about to sail, for the Behring's Sea to engage in taking seals. This large increase in the fleet engaged makes it certain, in the absence of an effective restrictive agreement, that the destruction of seal life during this season by pelagic sealing will be unprecedented, and will, in the opinion of our Com-
163 missioners, so nearly destroy the value of the seal fisheries as to make what will remain of so little value as scarcely to be a worthy subject for international arbitration.

The proposition of Lord Salisbury, to prohibit the killing of seals at sea "within a zone extending to not more than 30 nautical miles around the Pribyloff Islands," is so obviously inadequate and so impossible of execution that this Government cannot entertain it. In the early part of the discussion of the subject of a *modus* for last year this method was tentatively suggested, among others, in conversation between yourself and Mr. Blaine. But it was afterwards, in effect, agreed by both Governments to be inadequate, and was not again referred to in the correspondence. In the Memorandum furnished by you with your note of the 6th June you say, "Lord Salisbury points out that if seal-hunting be probibited on one side of a purely imaginary line drawn in the open ocean, while it is permitted on the other side of the line, it will be impossible in many cases to prove unlawful sealing, or to infer it from the possession of skins or fishing tackle."

This was said with reference to the water boundary of our purchase from Russia, but it is quite as applicable to the 30-mile zone which he now suggests. The prevalence of fogs in these waters gives increased force and conclusiveness to the point made by his Lordship against an imaginary water-line.

The President cannot agree, now that the terms of arbitration have been settled, that the restrictions imposed shall be less than those which both Governments deemed to be appropriate when it was still uncertain whether an early adjustment of the controversy was attainable. He therefore hopes that Her Majesty's Government will consent to renew the arrangement of last year with the promptness which the exigency demands, and to agree to enforce it by refusing all clearances to sealing-vessels for the prohibited waters, and by recalling from those waters all such vessels as have already cleared.

This Government will honourably abide the judgment of the High Tribunal which has been agreed upon, whether that judgment be favourable or unfavourable; and will not seek to avoid a just responsibility for any of its acts which by that judgment are found to be unlawful. But certainly the United States cannot be expected to suspend the defence, by such means as are within its power, of the property and jurisdictional rights claimed by it pending the arbitration, and to consent to receive them from that Tribunal, if awarded, shorn of much of their value by the acts of irresponsible persons.

I have, &c.

(Signed) WILLIAM F. WHARTON.

No. 244.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received March 24.*)

[Telegraphic.]

WASHINGTON, *March 23, 1892.*

Last night I received the reply of the United States Government to my note embodying the substance of your Lordship's telegram of the 18th instant on the Behring's Sea question. The President requested that it should be telegraphed to your Lordship. The substance of it is as follows:

The President had given immediate attention to my note, on account of the extreme gravity and urgency of the matter, growing out of the fact that any *modus vivendi* will be made ineffectual for the protection of the interests of the United States by much further protraction, and that, by reason of the impossibility of communicating with the Canadian sealers, immunity will be given to them. These vessels have hastened their departure, as is known, in order to escape notice of any *modus vivendi* being served upon them. Forty-seven vessels have already cleared, and if measures be not made to stop them, they will pursue the slaughter of gravid female seals to the very shores of the breeding islands. This is a crime against nature. If the arbitration proceeds, the United States Government expect to be able to show that the larger percentage of the pelagic catch consists of female seals. It is surprising and disappointing, in view of the above, that your Lordship should assume that suspension of such sealing for another year is not necessary, in order to prevent the undue diminution of the seal-herds, and that you should insist that it should continue. If Her Majesty's Government pays so little regard to the contentions of the United States Government as to refuse to respect them for a single season, the President is unable to understand for what reason it should have been proposed and agreed to by your Lordship to give them the status implied by the agreement to submit them to arbitration. It was open to neither party to disregard the contention of the other from the date of the signature of the above Agreement. It must be
164 assumed that the object which the two Governments had in view was the promotion of good-will and peace; but if, while arbitration is pending, the subject-matter is dealt with by either of them on the basis of its own contention only, this purpose is not attained; on the contrary, and even if it should be possible under such circumstances to proceed with the arbitration, a new sense of injury and injustice is added.

If Her Majesty's Government proceeds this season on the basis of its contention as to the rights of the Canadian sealers, no choice remains

for the United States but to proceed on the basis of their own confident contention, that pelagic sealing is an infraction of its jurisdiction and proprietary rights. This, in the opinion of the President, constitutes the gravity of the situation, and he is not willing to be found responsible for such results as may follow from an insistance on the part of either Government during this hunting season on the extreme rights claimed by it. The two great Governments interested in the question would be discredited in the eyes of the world if the friendly adjustment of their difficulties, which is so nearly concluded, were to be thwarted, or even disturbed, on account of the paltry profits of a single season. But if your Lordship persists in refusing to join the Government of the United States in stopping pelagic sealing promptly, and insists upon the maintenance of free sealing for British subjects, the question no longer is one of pecuniary loss or gain, but one of honour and self-respect, so far as it affects the Government of the United States.

The United States have proposed to take no profit from the island catch, notwithstanding that their right to take seals on the islands is neither disputed nor involved in the arbitration, and to engage that the take should be limited to the necessities of the natives. Whether with or without indemnity, they are unable to consent that the rights of British subjects in Behring's Sea, which are contested, shall continue to be exercised while arbitration is pending. The President finds it difficult to believe that your Lordship is serious in proposing that bonds against the injury which may be inflicted on the jurisdiction or property of the United States shall be taken by the United States Government from the owners of about 100 Canadian vessels, and he must decline to discuss a suggestion which only his respect for your Lordship, and his belief that the gravity of this discussion is fully realized by your Lordship, enables him to treat seriously.

In order to secure the proposed bonds, the United States would have to pursue owners upon the sea, and as the condition is to be that "any damages which the Arbitrators shall adjudge" shall be paid by the owners, while no power to adjudge such damages is given to the Arbitrators by the Treaty, the transaction would be of no value to the United States, and without risk to the owners. But however adequate the security offered, the United States Government cannot consent to have its rights impaired, pending their determination by a Tribunal of Arbitration. The reference in Mr. Blaine's last note to the inconsistency of Her Majesty's Government in denying responsibility for the acts of Canadian sealers was not meant to imply that the United States would be willing to consent to the conversion of their property into a claim for damages, particularly as the Arbitrators cannot determine such a claim unless the Treaty be revised. Your Lordship should bear in mind, whilst making your present proposal, that the fact of the Arbitrators not having jurisdiction as to damages is the result of concessions made by the United States Government to your views.

The President fails to see how claims can, by law or equity, be brought by subjects of either Power against their respective Governments, on account of restraints imposed with a view to the promotion of the public good or of international peace. There is full provision in the Treaty itself against the suggestion, that the conclusion of the arbitration will not be reached before the season of 1893. As to the Delagoa Bay Arbitration, your Lordship is in error in thinking that it has been proceeding for four years. It dates from a period of less than one year ago. If the Treaty is promptly ratified, mutual interests will be a sufficient guarantee against delay. The sole obstacle to such a consummation is

the prevalent belief, that Great Britain's refusal to preserve the *status quo* of the property, and her insistance on continuance of pelagic sealing during the arbitration, to the injury of the rights of the United States, largely defeats the object for which the Treaty was made.

The note ends with the following words: "The President directs me to say, in conclusion, that the *modus vivendi* of last year is the least that this Government can accept. In reason, the restraints after a Treaty of Arbitration should be more absolute, not less. He does not desire to protract the discussion, and having now, in the most friendly spirit, submitted the considerations which support the just demand of this Government, that the property which is now the subject of
165 an agreed arbitration shall not be subject to spoliation pending the arbitration, he expresses the hope that Lord Salisbury will give a prompt and friendly assent to the renewal of the *modus vivendi*. The President will hear with regret that Her Majesty's Government continues to assert a right to deal with this subject precisely as if no provision had been made for the settlement of the dispute; and in that event, this Government, as has already been pointed out, will be compelled to deal with the subject upon the same basis, and to use every means in its power to protect from destruction or serious injury property and jurisdictional rights which it has long claimed and enjoyed."

No. 245.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *March 26, 1892.*

In reply to your telegram of the 23rd instant.

Notice has been given to the owners of ships sailing for Behring's Sea, that both the Agreements which are at present under discussion between Great Britain and the United States—that as to Arbitration and that as to an intermediate arrangement—may affect the liberty of sealing in Behring's Sea. They have, therefore, notice of their liability to possible interruption, and will sail subject to that notice.

The question of time is not, therefore, urgent.

Inform President that we concur in thinking that when the Treaty shall have been ratified there will arise a new state of things. Until it is ratified our conduct is governed by the language of your note of the 14th June, 1890. But when it is ratified both parties must admit that contingent rights have become vested in the other, which both desire to protect.

We think that the prohibition of sealing, if it stands alone, will be unjust to British sealers, if the decision of the Arbitrators should be adverse to the United States. We are, however, willing when the Treaty has been ratified, to agree to an arrangement similar to that of last year, if the United States will consent that the Arbitrators should, in the event of a decision adverse to the United States, assess the damages which the prohibition of sealing shall have inflicted on British sealers during the pendency of the Arbitration; and, in the event of a decision adverse to Great Britain, should assess the damages which the limitation of slaughter shall, during the pendency of the Arbitration, have inflicted on the United States or its lessees.

As an alternative course we are also willing, after the ratification of the Treaty, to prohibit sealing in the disputed waters, if vessels be excepted from the prohibition which produce certificate that they have given security for such damages as the Arbitrators may assess, in case of a decision adverse to Great Britain; the Arbitrators to receive the necessary authority in that behalf. In this case the restriction of slaughter on the islands will not, in point of equity, be necessary.

Her Majesty's Government are unable to see any other than one of these two methods of restricting seal-hunting in the disputed waters during the Arbitration, which will be equitable to both parties.

No. 246.

The Marquis of Salisbury to Sir J. Pauncefote.

[Telegraphic.]

FOREIGN OFFICE, *March 26, 1892.*

With further reference to your telegram of the 23rd instant.

I am not prepared to admit, as I gather that the President thinks, that we have objected to the Arbitrators having jurisdiction as to damages inflicted in the past by the party against whom the award is given. I only objected to make Her Majesty's Government liable for acts which they have not committed. I am ready to consent to a reference on this point in the following terms:

That in case the Arbitrators shall decide in favour of the British Government, that Government may ask them, further, to decide whether the United States Government have since 1885 taken any action in Behring's Sea directly inflicting a wrongful loss on British subjects, and, if so, to assess the damages incurred thereby.

That in case the Arbitrators shall decide in favour of the Government of the United States, that Government may ask them to decide, further, whether the British Government have since 1885 taken any action in Behring's Sea directly inflicting a wrongful loss on the United States or its lessees, and, if so, to assess the damage incurred thereby.

Colonial Office to Foreign Office.—(Received March 2.)

DOWNING STREET, *March 2, 1892.*

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding copy of an Order in Council, to which are appended affidavits taken before the Collector of Customs at Victoria, British Columbia, with regard to certain points in connection with pelagic sealing.

I am, &c.

(Signed) JOHN BRAMSTON.

[Inclosure 1.]

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, *Ottawa, February 10, 1892.*

MY LORD: I have the honour to transmit herewith, for your Lordship's information, copy of an Order in Council, to which are appended affidavits taken before the Collector of Customs at Victoria, British Columbia, with regard to certain points in connection with pelagic sealing.

Copy of the Order in Council has been sent to Her Majesty's Minister at Washington for communication to the Behring's Sea Commissioners.

I have, &c.

(Signed) STANLEY OF PRESTON.

[Inclosure 2.]

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 9th February, 1892.

On a report, dated the 1st February, 1892, from the Minister of Marine and Fisheries, stating that, upon the receipt of a letter from the Behring's Sea Commissioners, Sir George Baden-Powell and Dr. George M. Dawson, asking for additional documentary evidence regarding certain points which have been put forward among the main indictments of pelagic sealing, he communicated with the Collector of Customs at Victoria, with a view to eliciting information on the following points:

1. The proportion of seals lost as compared with those hit in pelagic sealing.
2. The proportion of females to males in the number killed in the different fishing seasons.
3. The abstention of Canadians from all raiding on the seal islands.

The appended affidavits, taken before A. R. Milne, Collector of Customs at Victoria, have been received from the following parties:

Cereno Jones Kelley, master of the schooner "C. H. Tupper."
Captain William Petit, master and part owner schooner "Mischief."
Captain Wentworth Evelyn Baker, master schooner "C. H. Tupper," and formerly aster of schooner "Viva."
Clarence Nelson Cox, master of schooner "E. B. Marvin."
Captain Alfred Bissett, master of schooner "Annie E. Paint."
Captain Theodore M. Magnesen, in command of schooner "Walter A. Earl."
Henry Crocker, hunter on board schooner "Annie E. Paint."
George Roberts, hunter on board schooner "Annie E. Paint."
Richard Thomson, hunter on board schooner "Annie E. Paint."
Andrew Laing, seal hunter.
William Cox, master schooner "Sapphire."

The Minister recommends that copies of these affidavits be transmitted to the Behring's Sea Commissioners without delay.

167 The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy hereof to the Principal Secretary of State for the Colonies for the information of Her Majesty's Government.

All of which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

[Inclosure 3.]

Mr. Milne to Mr. Tupper.

CUSTOMS, CANADA, *Victoria, B. C., January 22, 1892.*

SIR: I have the honour to acknowledge the receipt of your communication of the 7th instant, relative to a joint letter from Sir George Baden-Powell and Dr. George M. Dawson, Behring's Sea Commissioners.

I beg to state that I have endeavoured to supply the information, and herewith transmit the first lot of affidavits of some of the most reliable of our sealing men, and I am continuing to take all I can obtain, which will be forwarded from day to day.

I trust the information is what is wanted, as I have endeavoured to frame the questions so that the answers would show reasons for their intelligent answers on the three questions:

1. The proportion of seals lost as compared with hit.
2. The proportion of females to males killed in the different months.
3. The abstention of Canadians from all raiding, &c.

I have &c.

(Signed) A. R. MILNE, *Collector.*

[Inclosure 4.]

Depositions taken before A. R. Milne, Collector of Customs, Port of Victoria, B. C.

Cereno Jones Kelley, master of the Canadian schooner "C. H. Tupper," of Shelbourne, Nova Scotia, having been duly sworn:

1. *Mr. Milne.*—How many years have you been engaged in sealing, Captain Kelley?—A. I have been sealing for two years as master of the "C. H. Tupper."

2. Q. Have your voyages been reasonably fortunate, in comparison with those of other vessels?—A. About an average.

3. Q. Have you gone south of Cape Flattery in hunt for seals?—A. Yes, Sir; and have followed the seals all along the coasts of British Columbia to Behring's Sea.

4. Q. During last year, to your observation, were the seals as plentiful from the coast to Shumagin Islands as they were the previous year?—A. I think there was no material difference.

5. Q. Did the seals last year appear to be frightened or more timorous than in previous years on account of the number of vessels?—A. I observed no material difference.

6. Q. In shooting seals, what is your experience?—A. My experience is that unless a seal is mortally wounded—hit in a vital spot—it is practically uninjured, and appears to be as full of vitality as before it was shot. The shot-wounds will rapidly close up, if not made in a vital part, and the seal will swim away as though nothing had happened. The flow of blood stops very quickly, and the seal moves off at a very rapid rate. I picked shot from the bodies of seals, previously wounded in other than a vital part, and the animal in every other way appeared to be in a healthy condition.

7. Q. So you believe that a seal when shot, if not mortally wounded, does not sink or seek a place—a rookery, or some place to die?—A. A wounded seal will not alter its course in the slightest. It will go along the same as before, its wound healing rapidly, very rapidly, too. It is astonishing how quickly such wounds will heal.

168 I once shot a seal which had been speared by Indians, and the spear had made an apparently mortal wound. There was a cut about 2¼ by 3 inches a little above the side behind the flipper. This wound appeared to have been made about three days previously, and in that time it had healed half an inch all round.

8. Q. Are there more seals shot sleeping than in motion?—A. I should say that the larger proportion of seals are shot whilst sleeping, that is, as far as my own experience goes.

9. Q. What do you consider the vital part of a seal? Where do the hunters aim for generally—the head or the heart?—A. It depends largely upon the position of the seal. The vital parts are in the head, in the vicinity of the heart, and, if a seal is shot so as to bleed internally, the hunters are sure of securing it. The head is the usual mark.

10. Q. What is usually a safe shooting distance?—A. It depends largely upon the circumstances of the case. Somewhere between 10 and 30 yards would be about the distance. I should say that it is the average with sleeping or travelling seals. The sleeping seal is often approached to within even less than 10 yards, but the average is from 10 to 20 yards for sleeping seal and from 10 to 30 yards for travellers.

11. Q. The seal is very sensitive, is it not?—A. Yes; we have to approach them from the leeward always. Their sense of smell is very acute.

12. Q. Do the seals generally travel far when wounded?—A. That will depend upon where it is wounded. If it is vitally wounded in the head, it will hardly move from its position, for it is likely to die right there, but it will not sink. This is from my own observation. There is only one way that a seal will sink after being shot, that is, when it is shot in such a manner as to be thrown backwards, sinking tail first, thus allowing the air to escape out of its mouth. I might say, further, that I have never seen a seal sink which was shot while sleeping.

13. Q. Will you state the proportion of seals lost as compared with those hit in sealing?—A. My own personal experience during the past two years is that my loss by seals sinking would not average 3 per cent. During last year (1891) I actually

lost only two seals out of seventy-seven—that is, I shot seventy-nine, and secured seventy-seven.

14. Q. In hunting seals, what is the direction in which they usually travel?—A. In the spring months they are leisurely travelling towards the north, when they change their position.

15. Q. In hunting seals, have you ever met with pups in the water?—A. Not generally; but during the season of 1890, while off Middleton Island, the hunters reported seeing two seal pups, probably a week old, but they appeared to be only just born.

16. Q. What is your opinion of the proportion of males to females killed during the hunting season? Are there any months in the year when there are more females than males killed?—A. It depends upon circumstances. My experience is that groups of bachelor bulls will travel together, and sometimes groups of females, including barren cows, will travel together, and again groups of yearling pups apparently travel together. That is my experience, and the experience of a number of others. The catch of any schooner coming into contact with groups of bulls, or of females, would be no criterion of the catch of other schooners as regards the number of females. In the year 1890, while in Behring's Sea, one day we took seventy-five seals, and the next day we took eighty, and in the whole of that number I observed only one female, and the hunters particularly informed me that they did not see any female seals at all; that they were all vigorous young bulls.

17. Q. Would anything lead you to think, Captain Kelley, that there is a likelihood of more females than males being killed between here and Shumagin Islands? That is, from January to June?—A. I can safely say that my personal experience has been on the side of the males, largely—both on the coast and in the Behring's Sea the number of seals caught is made up largely of males.

18. Q. Are there any months of the year during which there are more females caught than males?—A. I should say that, as far as my own observation has gone, there is no difference; but in every month, during my voyages, I have had more males than females.

19. Q. Do you know of any Canadian vessels who have raided the seal islands during any year in which you have been engaged in the sealing industry?—A. I have every reason to believe that none of the Canadian fleet have ever raided, or attempted to raid, or made any preparations to raid, any seal islands in the
169 Behring's Sea. If any such thing had happened, I should most certainly have heard of it, and I believe it to be true that the American schooners "George R. White" and "Daniel Webster" did raid these islands, as also the "Mollie Adams." That they did raid the seal islands is a fact well known to all Canadian sealers. I also heard that the German schooner "Adele" raided the Pribyloff Islands, which action met with the strong disapprobation of every Canadian sealer.

(Signed) C. J. KELLEY.

Sworn to at Victoria, British Columbia, this 22nd day of January, 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

Before A. R. Milne, Collector of Customs, Victoria, B. C., January 23, 1892.

Captain William Petit, present master and part owner of the steamer "Mischief," having been sworn:

1. Q. (*Mr. Milne.*)—Captain Petit, how many years have you been engaged in sealing?—A. Six years, Sir.

2. Q. Continuously?—A. Yes, Sir.

3. Q. What vessels did you command?—A. In 1886 I commanded the "W. P. Sayward," in 1887 the steamer "Grace," in 1888 the schooner "Sapphire," and in 1889, 1890, and 1891 the "Mary Taylor."

4. Q. Have your catches during these six years been reasonably successful in comparison with other vessels?—A. About an average.

5. Q. You have sealed south of Cape Flattery, have you not, and followed the seals along the coast of British Columbia and into Behring's Sea?—A. Yes.

5*. Q. During last year, to your observation, were the seals apparently as plentiful from the coast to Shumagin Islands as they were in previous years?—A. I found them more plentiful last year than I have any other year since 1886, that is, Cape Flattery, north.

6. Q. How did you find them in Behring's Sea?—A. I found them there in Behring's Sea as plentiful as in former years.

7. Q. Are the seals now more frightened or more timorous than they have been on account of more vessels, or from any other cause?—A. I have seen no material difference.

8. Q. In shooting seals, what is your experience?—A. My experience is that unless a seal is mortally wounded—hit in the head or in the region of the heart—the shot does not appear to injure it.

9. Q. Do you believe that a seal, when shot, and not mortally wounded, does not sink, or seeks some place to die—a rookery, or some such place?—A. No, Sir; a wounded seal will not alter its course in the slightest. It will move along as before, its wound healing rapidly.

10. Q. What do you consider the vital part of a seal? Where do the hunters generally aim for?—A. For the head or the heart; it depends upon the position of the seal, but usually the head.

11. Q. What is the distance at which you shoot seals?—A. It depends upon circumstances.

12. Q. Are more seals shot while sleeping than in motion?—A. There are more shot sleeping, Sir. It is my opinion that the larger proportion of seals are shot while sleeping. The seals taken by the Indians are nearly all killed while sleeping.

13. Q. What is the shooting distance?—A. It depends upon circumstances; 10 to 20 yards for sleepers, and a little more, 10 to 30 yards, for travellers.

14. Q. You have seen the hunters and Indians approach even nearer than 10 yards, have you?—A. Yes, I have seen them approach to within less than 10 feet.

15. Q. When seals are vitally wounded, say in the head, will they move far from the position in which they are shot?—A. No, Sir.

16. Q. They are likely to die right there, are they?—A. Yes, Sir.

17. Q. And they will not sink?—A. With few exceptions, such as when a seal is shot and thrown backwards, thus allowing the air to escape out of its mouth.

18. Q. Will you state your opinion, Captain Petit, of the proportion of seal lost by sinking after being shot?—A. My personal experience during last season with white hunters would not exceed 5 per cent., and with Indians in former years
170 I doubt if it amounts to even 1 per cent. The reason of this percentage in favour of Indians is because they were caught with a spear, and consequently could not get away.

19. Q. Have you ever seen a seal shot while sleeping sink?—A. I have never known one to sink.

20. Q. Then you are clearly of the opinion that seals will not sink for some time unless thrown backwards?—A. I am. When they do sink, even to 10 or 15 feet, they can be reached with the gaff.

21. Q. When the hunters return to the vessel at night, do they usually discuss their day's proceedings, and particularly mention the loss of seals, when such loss occurs?—A. Yes.

22. Q. Then, Captain Petit, you conscientiously adhere to the statement that the loss by sinking of seals hit will not exceed 5 per cent.?—A. I certainly do; but there are seals hit and not mortally wounded, and these escape, but they are not "lost," as they are quite as vigorous as before, because their wounds heal very rapidly. I have often found shot in the skin.

23. Q. What is your opinion of the proportion of females to males killed during the last hunting season?—A. Last year, out of my catch of 765, I had only 18 females carrying young—not quite 2½ per cent. Of course, as in other seasons' catches, we had a number of barren cows—about the usual run, 10 per cent., and 12½ per cent. of grey pups. These grey pups are always bulls, and one year old.

24. Q. Your catch, then, would be about 75 per cent. of males last season?—A. Yes, Sir; including the yearlings it was more than 75 per cent.

25. Q. You say grey pups are always males; will you explain this?—A. The Indians called my attention to this fact years ago, but the reason is not quite known, still it is a fact. I have observed very closely, and have never yet seen a female grey pup one year old. I try to account for this by the supposition that the yearling grey male pups are driven early out of Behring's Sea by the old bulls.

26. Q. Last year, did you hear any remarks about the number or proportion of the males to females caught, from any one or any source?—A. Yes, Sir; I heard that a much larger percentage of males were caught last year than in any former year.

27. Q. I would ask you, Captain Petit, if in any former years there was a similar preponderance of males—do you remember of any such fact?—A. Yes, I do. In 1886, when off Barclay Sound, in one day we had taken 104 seals, of which 3 only were females. In the following year, 1887, when off Portlock Bank, we took 79 in one day, and only 2 females were found in that number.

28. Q. How do seal cows travel? Singly or in pairs?—A. They travel singly or in pairs.

29. Q. How do bulls travel?—A. They travel in bands, as do also the bull pups. They travel singly too.

30. Q. Are female seals carrying young very timid?—A. Yes, Sir; they are. They sink their bodies, so that nothing but their noses and eyes are out of water, and are therefore smaller marks for the hunters.

31. Q. Barren cows travel with bulls, do they?—A. Yes, Sir; barren cows usually travel with the bulls.

32. Q. Are there any months in the year during which there are more females than males killed? Any particular time that you have observed?—A. No, Sir.

33. Q. Is it your candid opinion that there are more barren cows killed than seal-bearing cows?—A. Yes, Sir; I think there are more.

34. Q. Do these barren cows, from the knowledge you have of seals—do you think that they ever become bearing?—A. I think they do.

35. Q. That they will have periods of bearing?—A. I don't think that a seal will bear before she is 4 years old.

36. Q. How long does a seal carry her young?—A. It is understood to be eleven months.

37. Q. Were there any circumstances occurred to you upon your last voyage which would indicate a marked decrease in the number of seals?—A. None whatever, Sir. On the contrary, I should say there were more. There seemed to be more last year, at least we saw more that year than for several years previously.

38. Q. In your observation as to the habits of the seals, they appear to be like the salmon—that they return from no known cause in larger numbers?—A. Well, I don't know, Sir; I think that they have their annual migrations; but there is question whether they follow the same track every year. You will find them on some grounds one year, and in other years on other grounds.

171 39. Q. Do you think that the number of female seals killed in the hunt is materially injuring the reproduction of seals?—A. No, Sir.

40. Q. Can you give a reason for that?—A. From the small percentage of females killed, I don't think it would injure reproduction in any way.

41. Q. Were you in Behring's Sea last year, and were you ordered out?—A. And was ordered out by the United States ship "Corwin."

42. Q. Before being ordered out, what was your usual fishing distance from land?—A. 60 to 100 miles.

43. Q. You found seals all along that distance from land?—A. Yes, in large numbers.

44. Q. You had the prospects of a fair catch?—A. Yes, Sir; I had the prospects of a very fair catch up to the time I was warned.

45. Q. You consider it a very material loss, being warned at the time out of Behring's Sea?—A. I do, Sir; I consider it a very heavy loss.

46. Q. You still adhere to the statement that the seals between 60 and 100 miles from land were as plentiful as in any previous years in your experience?—A. As plentiful as they were in any year since 1886.

47. Q. Did you observe in your catch in Behring's Sea any preponderance of females over males, or *vice versâ*?—A. Yes, Sir; the males were in excess.

48. Q. Can you state from recollection an average day's hunt in Behring's Sea?—A. Forty-eight was about the largest I made while in Behring's Sea.

49. Q. Do you remember hearing any of the hunters speak of losing any seals by sinking?—A. No, Sir; I don't remember any instances of such loss.

50. Q. Did you cross from the American side of the Behring's Sea into the Russian side?—A. No, I didn't, I came straight home to Victoria through Ounimak Pass.

51. Q. During the year, did you hear from any source that any Canadian vessels had raided the seal islands or any of them?—A. No, Sir; I never heard of any British or Canadian vessels, not during the past year, or any year I have been engaged in sealing.

52. Q. Captain Petit, do you believe any of the stories that are told about the "Geo. R. White," the "Daniel Webster," and the "Mollie Adams" raiding these islands?—A. Yes, Sir; I believe those reports.

53. Q. These were all American vessels, were they not?—A. Yes, Sir.

54. Q. During the last two years it is reported that the American schooners "J. Hamilton Lewis," formerly the British schooner "Aïda," and the "City of San Diego," raided the Copper Islands?—A. Yes, Sir.

55. Q. Do you believe that is true?—A. I do, Sir; and also in 1886 or 1887, the American schooner "Look-out," raided the Pribyloff Islands, so that the history of raiding the seal islands is peculiarly American, and solely by American schooners.

56. Q. Was not the British schooner "Aïda" seized by the American Government and sold?—A. Yes, Sir. In 1887, and renamed the "J. Hamilton Lewis."

57. Q. Is not this same vessel, the "J. Hamilton Lewis," the same vessel as was seized by the Russians this year, in the vicinity of Copper Island?—A. Yes, Sir; and served her right too.

58. Q. If any of the Canadian vessels had raided either the American or Russian seal islands, your long experience in the sealing fleet here would have insured your being aware of it?—A. Yes, Sir; I should certainly have heard of it—learned it from hunters, masters, or seamen. It would have been sure to have leaked out.

59. Is it your opinion that ship-masters or ship-owners have been most careful in instructing their masters or captains to avoid any interference whatever with the

seal islands?—A. I have served with different owners, and I have been instructed to carefully avoid approaching the islands within the international limit. In fact, all the sealing I have conducted has been done outside at least of the 20 miles from land.

Mr. Milne.—That will do, Captain Petit. Thank you very much.

(Signed) WILLIAM PETIT, *Master.*

Sworn to before me, at Victoria, British Columbia, this 23rd day of January, 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

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172 Before A. R. Milne, Collector of Customs, Victoria, B. C., January 22, 1892.

Captain Wentworth Evelyn Baker, present master of the Canadian schooner "C. H. Tupper," and formerly master or the schooner "Viva," of Victoria, being duly sworn:

1. *Mr. Milne.*—How many years have you been engaged in sealing, Captain Baker?—A. Four years.

2. Q. What Canadian schooners have you commanded during those four years?—A. The schooner "Viva."

3. Q. During the four years have you been more than reasonably successful as a seal-hunter?—A. Yes, Sir.

4. Q. How many white men would your vessel usually carry?—A. Twenty-three, all told.

5. Q. You have hunted all along the coast, and also every year in Behring's Sea?—A. Every year except 1891. During last year I was always outside of the line of demarcation between Russian and American waters.

6. Q. During last year, to your observation, were seals as plentiful along the coast to Shumagin Islands as they were the year before?—A. In some places I found them as plentiful; in others I found them more plentiful. In some places where I never found any before I found them last year, and I found none where I had previously found some.

7. Q. Then, Captain Baker, you think there is no material difference, on the average, during the four years? That is to your observation?—A. I should say, to my observation, there was no material difference.

8. Q. Your coast catch last year was equal to that of former years, was it?—A. It was equal to the first two years, and better than the third year by almost as many more skins, having 698 skins in 1890, and in 1891 I had 1,260 skins.

9. Q. Owing to the number of vessels, do the seals appear to be more timorous?—A. Well, I did not find them so, except in some places. It is a great deal owing to the position in which you find them. I found that the nearer the coast the wilder they are, and the further at sea you go they don't seem to be any wilder than previously. I think that what makes them wilder along the coast is the increase of traffic, steamers and so on being very numerous.

10. Q. It is said that seal travel in groups of females and groups of bachelor bulls and young bulls—not mixed. Is that so?—A. I have always found it so.

11. Q. So you think that the number of male or female seals caught would depend entirely upon the schooner falling in with groups of males or females?—A. Entirely.

12. Q. How is that?—A. It is much harder to keep the run of females than of the males or barren cows. Females with young appear to be much more timid, and when you get among them and commence shooting, they disappear very quickly, and show only the nose and eyes above water when travelling, and do not expose their bodies as much above the water as the bulls and barren cows do, as if the maternal instinct to preserve their young was apparent. This fact is well known to all seal-hunters I have often been in a group of cows with pups during the afternoon, and at night they would all disappear, and, apparently from maternal instinct, they will travel away as quickly as possible.

13. Q. Do you consider it more difficult to shoot females, so little exposed as they are, than males?—A. It is decidedly more difficult, particularly on the coast.

14. Q. You have observed a number of barren females?—A. Yes; quite a [?.]

15. Q. How do they travel?—A. Usually by themselves, or mixed with bulls; I have never found a cow with pups among the bulls.

16. Q. Have you any idea what the percentage would be of the number of barren cows to the number of seals caught?—A. I could not say exactly, but the percentage is considerable.

17. Q. What is the accepted theory among the sealers as to the barrenness of cows?—A. I don't know as I have heard of any theory—unless they are like other animals.

18. Q. When you speak of barren cows, you mean those who have been more than one season barren?—A. Yes; because before that they are called pups. The barren cows are those who are old enough to have pups, but didn't.

19. Q. You are quite of a clear opinion then, Captain Baker, that there is a considerable percentage of barren cows?—A. Yes, Sir.

173 20. Q. Are there more seals shot whilst sleeping than in motion?—A. Yes, Sir; my experience has been that there are more seals shot whilst sleeping, and that is the experience of most of my hunters, by their report.

21. Q. What do you consider the vital part of a seal?—A. The head or the heart, or in the neck.

22. Q. Do your hunters prefer to shoot the seal in the head?—A. Yes, Sir; on account of preserving the skin, and also that, the moment the seal is shot in the head, the head sinks and the wind cannot escape. Then, if the seal is not killed, the shot will stun it, and its head will drop below water, so that it cannot sink.

23. Q. What is usually a safe shooting distance?—A. For sleeping seals the distance would be about 10 yards, and for travelling seals the distance would be about 10 to 30 yards.

24. Q. Considering that the seals are shot in the head, and the greater portion whilst sleeping, will you state the proportion of seals lost, as compared with those hit, in sealing?—A. The proportion is very small, because, as the usual distance for shooting is about 10 yards for a sleeping seal, we most always kill them instantly, and being so near the seal—even if they are inclined to sink—they are gaffed before they have time to sink. If they even did sink 15 feet, say, we could catch them, as when sinking they go very slowly. The only time I know of when a seal is likely to sink is after it has been chased around in the boats and winded, then shot again, so as to be thrown backwards, allowing the wind to escape from its mouth, when it sinks tail first. Every boat is supplied with a long pole, about 15 feet, and a spear and gaff on the end, so that we can reach that distance. It is very seldom that a seal will get away. I would say, therefore, from personal experience, that the percentage of loss, as compared with those hit in sealing, would not exceed 3 per cent. Last year I killed, myself, on the coast, fifty-five seals, and out of that number I lost only one by sinking.

25. Q. As a general thing, is the percentage of loss more now than it was four years ago, or is it smaller?—A. From personal experience, I think about the same, and from the reports of the hunters I should judge it was the same, as they all report their experiences on their return to the vessel each night, and when a seal is lost it is always spoken about. From a record kept by hunters during two voyages the aggregate loss by each hunter is shown, and the percentage is not greater, on an average, than 3 per cent.

26. Q. How many hunters do you usually carry?—A. Six; and I hunted myself. The ship's company consists of twenty-three persons.

27. Q. What size shot do you use in shooting seal?—A. No. 2 buck-shot, or "S" Canadian shot; and the guns are of the very best material and very expensive, costing from 70 to 100 dollars.

28. Q. What do you think is the proportion of females to males in the number killed in the different months of the fishing season?—A. I don't know, I am sure. It depends upon circumstances. My experience last year was very largely on the bull side on the coast; that is, the proportion taken were largely male seals. I can conscientiously say that it must have been three bulls to one female, and I had a larger number of seals than any other vessel on the spring catch.

29. Q. In the Behring's Sea, to your observation, were the males or females in the preponderance?—A. My experience is that they are very much as they are on the coast. Sometimes I would meet with groups of all bulls, and again with groups of all cows.

30. Q. While in Behring's Sea last year, what would be your usual sealing distance from the land?—A. I was not in Behring's Sea last year, but in previous years it would be from about 30 to 90 miles from land. The usual distance is about 60 miles. Sometimes we are inside of that, sometimes outside of it.

31. Q. Last year, I understand you to say, Captain Baker, you were not in the Behring's Sea on the American side?—A. No.

32. Q. Do I understand you to say that on the Russian side the same observations will apply to the habits and shooting of seal as on the coast?—A. Precisely the same as to their grouping and habits.

33. Q. During the four years that you have been sealing, Captain Baker, I would like you to state explicitly if you saw or heard of any Canadian vessels raiding the American seal islands?—A. No, Sir. To my knowledge I have never heard of any, and I have every reason to believe that there has never been any Canadian schooner raiding any of them.

174 34. Q. If anything like this had happened, you would have heard of it?—A. Most certainly I would have.

35. Q. You have never heard any information of any of our sealers conniving to raid the seal islands?—A. I never did.

36. Q. Two years ago it was reported that some American schooners had raided seal islands. Did you hear such a report?—A. Yes, Sir; I heard a report that cer-

tain American schooners had raided these islands. The "Geo. R. White," "Daniel Webster," "Mollie Adams," and for two years the "J. Hamilton Lewis," have been raiding the Copper Islands on the Russian side, and it is reported that the American schooner "City of San Diego" also raided the Copper Islands last year.

37. Q. You have heard of the German schooner "Adele" raiding these islands?—A. Yes; in 1889, with poor success. These illegal acts meet with the strong disapprobation of every Canadian sealer.

38. Q. And if Canadian sealers had done acts of that kind, you think it would most certainly have leaked out?—A. It most certainly would have.

39. Q. You are quite satisfied, then, that not a single Canadian schooner at any time has raided the seal islands?—A. Not to my knowledge. I don't know of one single case.

40. Q. What was your entire catch last season?—A. 1,991 for the whole season.

41. Q. Giving your opinion in confidence, what is your opinion of the seals on the coast and in Behring's Sea? Are they decreasing or increasing?—A. From my experience, I have not seen any decrease, but I have noticed also that they change their grounds from time to time, and where you find them this year you may not find them the next. This was very remarkable during the year 1890, for the seals were all found to the eastward of Pribyloff Islands, while in former years they were found to the westward.

42. Q. When did you find them to the eastward of St. Paul's Island? I understand you to say that you found them very numerous?—A. More so than I ever did before.

43. Q. Have you any opinion to offer as to the return of the seals to the coast last year?—A. I have no direct opinion, but certainly the seals were more plentiful on the northern coast last year than the previous years.

(Signed) W. E. BAKER, *Master.*

Sworn to before me, at Victoria, British Columbia, this 22nd day of January, 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

January 19, 1892.

Clarence Nelson Cox, master of the schooner "E. B. Marvin," of Victoria, examined by Collector Milne:

1. Q. What vessels have you commanded on this coast and in Behring's Sea, Captain Cox?—A. I have been two years master of the "Triumph," and one year mate of the "Sapphire" with my brother.

2. Q. This makes your fifth or sixth year?—A. This makes my fourth year. I was in Behring's Sea so late last year; that is probably why it may seem I have been out oftener than others.

3. Q. The inquiry, Captain Cox, is to elicit, first, the number of seals lost by being hit. It is alleged that you lose a large proportion of those that are shot, and we wish to get at the facts. Also to establish the number of females caught during the last and previous years, and also to investigate if there were any Canadian sealers raiding the seal islands. In the spring of the year, when you leave port, you go down to meet the seals along the coast?—A. Yes.

4. Q. I have been given to understand that the seals travel in bands?—A. Yes; all the cows together, and all the bulls together, and the grey pups together.

5. Q. I suppose they are quite distinctly separated?—A. Yes; we get the grey pups closer to shore, always inside of the large seals.

6. Q. As a matter of fact, you do not find many female seals bearing young
175 travelling with the bull seals?—A. I have never seen them in company together. I have found the barren cows and bulls in company.

7. Q. This separation is from natural selection, or instinct?—A. Yes; while carrying their young they are never found with the bulls. The barren cows occasionally do travel with the bulls.

8. Q. During what months have you found more females carrying young as compared with other months of the sealing season?—A. In the winter, when we first go out—February, March, and April.

9. Q. That is, both bearing cows and barren cows too?—A. No; bearing cows. There are also grey pups about at that time.

10. Q. What do you mean by "grey pups"?—A. The yearling seal. After that it is called a "brown pup," then a "two-year-old."

11. Q. Along the coast, from the time you strike them in the spring, do you shoot the larger proportion of the seals sleeping, or are there more shot while travelling?—A. Yes; the larger portion of the seals killed during the season are shot while *sleeping.*

12. Q. You say you find the bearing cows travelling continually?—A. If the weather is rough, they are travelling, but if fine, they are usually seen sleeping or resting.

13. Q. Is it a fact that the females with young swim low down in the water?—A. Yes; the bulls and barren cows keep their heads well up, looking around.

14. Q. When you come upon a group of seals, your catch, then, will depend upon whether the group is composed of males or females?—A. Yes; very much.

15. Q. As a matter of experience, Captain Cox, have you come upon more groups of males than of females during the last year, say?—A. I have caught more bulls the last season—a great deal more. I had 848 seals coming up the coast before entering Behring's Sea, and of these about 75 per cent. would be males.

16. Q. Have you any private opinion as to the reason of this preponderance of the males last year as compared with previous years?—A. I cannot account for it. In fact, I could hardly advance any idea of the cause. I get the most of them from Queen Charlotte Island coast northwards.

17. Q. You think, though, with some of the other sealers, that at about May the cows are well in advance, going to Behring's Sea, to the breeding grounds, consequently the males would be left behind?—A. That is the only reason I can see for it, because we get very few females "with pup" in May.

18. Q. What do you consider a sufficient shooting distance, that is sufficiently close range, for sleeping seals?—A. A great many are shot inside of 15 yards. I think about 15 yards.

19. Q. As a professional sealer, what is your honest and candid opinion about the percentage of seals lost, that is, the number lost after being hit—those that sink?—A. With the Indian hunters it would not amount to one in a hundred. They kill with the spear, and I know it would not amount to 1 per cent. I was only one season with Indian hunters. Last year I had whites. I do not think the loss would be more than 4 or 5 per cent. with shooting by the white hunters.

20. Q. The spear of the Indian sealer is barbed, is it not, and fastens in the animal?—A. Yes, it has two barbs, and a line attached, so that they are sure of their seal unless their line breaks, or the spear is not stuck in far enough to hold, neither of which happens often.

21. Q. You can quite confidently state that the loss of seals killed by white hunters would not exceed 4 or 5 per cent.?—A. I can.

22. Q. This you base upon your own personal knowledge?—A. Yes.

23. Q. How many of a crew do you carry on your vessel?—A. Six boats, that is, six hunting boats, and a stern boat, seven in all.

24. Q. Your ship's company would be how many?—A. Twenty-three men.

25. Q. And the number of hunters?—A. Six hunters, or, counting the stern boat, seven hunters.

26. Q. Your catch last year was how many skins?—A. On the coast, 848 skins.

27. Q. Of that number, how many would be breeding seals?—A. I do not think there would be more than 15 per cent.—about 126 female skins.

28. Q. What percentage of them would be barren female skins?—A. About 10 per cent.

29. Q. Is the percentage of bearing cows greater than of barren cows?—A. Yes; every year in my experience there have been more bearing cows than barren.

176 30. Q. About 15 per cent., then, would be bearing cows, and 10 per cent. barren ones?—A. Yes.

31. Q. You stated that it would entirely depend upon the groups you struck along the coast whether you got males or females?—A. Yes.

32. Q. And you base your figures upon four years' experience?—A. Yes.

33. Q. Then you know the percentage of bearing cows would be 15 per cent., and the barren cows 10 per cent.?—A. Yes. The first year I was with my brother I believe we had not more than 10 per cent. of cow seals; one of our seasons we had at least 90 per cent. bulls.

34. Q. That statement applies to Behring's Sea?—A. Yes.

35. Q. What year was that?—A. 1889, when I was with my brother as mate of the "Sapphire." The catch on the coast up to Behring's Sea was about 90 per cent. bulls.

36. Q. In the Behring's Sea, what percentage of females had you, as compared with males—I am told there are less bulls?—A. I think the percentage of bulls in Behring's Sea is less than on the coast.

37. Q. Bachelor bulls?—A. Yes. The greater percentage would be cows—bearing cows; after they have dropped their young we don't get them in Behring's Sea.

38. Q. Do you not find a lot of bachelor bulls hovering about the outskirts of the groups of seals?—A. Yes, we get some, but there are more females in Behring's Sea.

39. Q. Did you find it so last year?—A. Of course I was not in Behring's Sea long enough to know.

40. Q. Your remarks, then, would not apply to last season?—A. No.

41. Q. You think there would be about an equal number of cows and bulls in Behring's Sea?—A. Yes; I think that the bulls and cows are about equally divided.
42. Q. It is well known among sealers that the old bulls keep their herds, and drive the "bachelor" bulls off?—A. Yes.
43. Q. Do you find many groups of bachelor bulls in Behring's Sea?—A. We do not find them so much in groups as on the coast.
44. Q. Taking your whole catch for the past year, skin for skin, what percentage of females had you?—A. We had not more than 25 per cent. barren and bearing cows. That would leave us about 75 per cent. bulls.
45. Q. 25 per cent, females, including barren cows?—A. Yes.
46. Q. In the years before last would that percentage hold good?—A. I think the previous years would not differ very much.
47. Q. In the months of February, March, and April you think that the females killed are more numerous than in Behring's Sea?—A. I think so. We get a great many more grey pups in the winter.
48. Q. Among all the hunters it is pretty well known that the average of loss by being hit would not exceed 3 to 5 per cent?—A. Yes; that is well known.
49. Q. Wounding a seal so it escapes, you don't consider that lost?—A. No; they carry a lot of shot, and the hunters don't just shoot at it and leave it if it does not die on the spot, but give chase, and if wounded badly it has not much chance of getting away.
50. Q. Considering the hazardous occupation of sealing, the men get very expert in it?—A. Yes; I have a man aboard who does not lose five seals during the whole season.
51. Q. Is it your opinion that the female seals with young are somewhat timid, and more on the alert than the old bulls?—A. Yes; they are.
52. Q. That is one reason why the percentage of females is so small, I suppose?—A. Yes.
53. Q. In Behring's Sea you say the percentage of loss would be more than on the coast?—A. I think the percentage of loss in Behring's Sea is less than on the coast, because the sealers get more seals asleep in the sea. They seem to be right at home there, and not travelling about so much.
54. Q. Have you at any time known any of our vessels (that is, Canadian vessels), registered Canadian vessels, landing on the seal islands for the purpose of raiding and killing seals?—A. I can conscientiously say that I have never known of any of our vessels landing there.
55. Q. And have never heard our masters or sailors encourage that sort of practice?—A. No.
177 56. Q. Have you heard of any vessel having done so?—A. Yes; I have.
57. Q. What vessels?—A. The "Mollie Adams," "George R. White," and the "O. S. Fowler," of San Francisco, I heard, raided the Pribyloff Islands.
58. Q. That fact is well known to the whole fleet?—A. Yes, Sir.
59. Q. You were not in Behring's Sea last season?—A. I was in, but didn't stay long; I was ordered out of it.
60. Q. You left as soon as ordered to leave?—A. I did; came direct home.
61. Q. Who warned you?—A. The British steamer "Pheasant."
62. Q. You didn't try to seal after that?—A. No.
63. Q. Or lowered your boats?—A. I didn't lower any boats after receiving the order.
64. Q. You have heard of some American schooners raiding Copper Island?—A. I have.
65. Q. Do you know the McLean brothers?—A. Yes; and the "City of San Diego" here, and the "Webster" and "J. Hamilton Lewis," three American vessels who raided Copper Island.
66. Q. You have no idea of why the seals were more plentiful along the coast last year than other seasons?—A. I have no idea.
67. Q. There has been no practical theory advanced as to why last year the seals were more plentiful close in shore than in other years?—A. I have none, except that it is on account of their food fish. The seal follows the food. The earlier those fish strike along the coast, and the closer in shore, the earlier and closer to the coast we get the seals.

(Signed) C. N. Cox.

Sworn before me, this 18th day of January, A. D. 1892.

(Signed) A. R. Milne, *Collector of Customs.*

Captain Alfred Bissett, master of the Canadian schooner "Annie E. Paint," of Victoria, British Columbia, being duly sworn, says:

20. Mr. Milne.—How many years have you been engaged in sealing?—A. Two years; this is my third year—have been master, mate, and hunter.

21. Q. You have had about average luck?—A. Yes, about the average.
22. Q. You have followed the seals from south of Cape Flattery north, haven't you?—A. Yes, Sir.
23. Q. During last year, to your observation, were the seals as plentiful along the coasts as they were the previous years?—A. They were.
24. Q. Did the seals appear more frightened than usual?—A. I think not; I noticed no difference.
25. Q. Did you notice last year, or any year, in hunting seals, that the cows travel together by themselves, and the bulls by themselves, in herds?—A. I did notice that the bulls, in a general way, travel together, and the cows together, and small seals, as a rule, pups, travel together.
26. Q. When hunting, of course, if you struck a band of bulls, the catch that day would be principally bulls?—A. Yes; principally bulls.
27. Q. Do you think more seals are shot while sleeping than when in motion?—A. Oh, yes; far more, about 80 per cent., I think.
28. Q. What do you consider a safe shooting distance for a sleeping seal?—A. For a sleeping seal about 20 to 30 feet is a sure distance.
29. Q. And when they are on the move, what is the distance?—A. Well, from 25 to 30 yards.
30. Q. What is your opinion of the proportion of seals that are lost after being hit?—A. I think from 3 to 5 per cent. would cover everything.
31. Q. Where do you aim for, in shooting a seal?—A. I aim for the head.
32. Q. So when a seal drops his head down, the air is stopped from escaping?—A. Yes; that is the reason we shoot in the head.
33. Q. During last year did you notice the proportion of females to males killed?—A. From counting the skins, and noticing the seals coming on board the ship, I should form 75 to 80 per cent. were bulls, and the remainder females.
178 34. Q. Do you know the reason of that?—A. I don't know, unless the cows travel a little faster than the bulls, who follow the coast. I have always noticed that there are more bulls killed on the coast than there are females.
35. Q. Have you ever noticed when the number of females predominate?—A. I hardly know, but I have noticed that during the months of March and April that there were more cows than males in the months of May, June, and July.
36. Q. Can you form any idea from what you have heard, whether there are more females killed than males?—A. I should say that there are decidedly more males. That is from what I have heard and seen myself. There is no doubt that the low price obtained in London this year is due to the large number of small bull skins taken, the skins of the females being larger and better.
38. Q. During the two years that you have been engaged in sealing have you ever known any Canadian vessel to raid any of the seal islands?—A. No, sir.
39. Q. If there had been any such thing going on, it would have leaked out?—A. It would certainly have leaked out, and I would have heard of it. It is almost impossible to keep it quiet.

(The above having been carefully read over to Captain Bissett, he corroborates and substantiates the same.)

(Signed) ALFRED BISSETT.

Sworn before me at Victoria, British Columbia, this 18th day of November [*sic*], 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

January 19, 1892.

Captain Theodore M. Magnesen, in command of the schooner "Walter A. Earl," of Victoria, examined by Collector Milne:

1. Q. How many years have you been sealing in Behring's Sea, Captain Magnesen?—A. Three years; this will be my fourth.
2. Q. You have had very good success last year?—A. Yes, very fair success.
3. Q. Did you notice last year any perceptible decrease in the number of seals compared with previous years?—A. I think they were more plentiful last season than I ever saw them before.
4. Q. Do you mean in Behring's Sea?—A. Yes, both along the coast and in the Sea. The biggest catch I have ever made was last year, on the coast as well as in the Behring's Sea.
5. Q. You have noticed the habits of the seals—how they travel?—A. They travel in batches, the bull seals by themselves, and the cow seals by themselves, and the yearling pups by themselves.

6. Q. As a matter of fact, are there more seals shot while sleeping than while they are travelling?—A. That is hard to say, but I think there are just as many shot while moving as there are sleeping seals.

7. Q. When you shoot seals by sleeping, what is the safe shooting distance?—A. About 25 yards.

8. Q. And when travelling?—A. About 45 to 50 yards.

9. Q. The usual mark you shoot at is the head of the seal?—A. Yes.

10. Q. When hit in the head, the seal does not sink?—A. No; sometimes he does, though, if he is shot when short of wind at the moment, and he will sink if you are too far away to pull it out.

11. Q. You have noticed them sinking?—A. Yes; they generally sink tail first.

12. Q. If the seal is shot in the head, he drops his head, and that confines the breast, and it floats?—A. Yes, that is the way I have accounted for them floating.

13. Q. How many seals, in your experience, do you think a hunter loses out of, say, 100 shot at?—A. I know my head hunter killed 498 seals last year, and 17 of them sunk.

14. Q. That would be about 3½ per cent.?—A. Yes.

15. Q. Do you consider that a fair average on the number of seals lost?—A. As an experienced hunter, I think it is a fair average.

179 16. Q. Would you say that a man who loses, say, 5 per cent. of the seal he shoots would not be an experienced hunter?—A. He could not lose more than that.

17. Q. Will that percentage of loss apply to the travelling seals as well as to the sleeping seals?—A. Yes, the most of the seals lost are the ones shot by the ones moving or travelling.

18. Q. Your boats carry pole, spear, and gaff?—A. Yes; and if the seal sinks down 10 or 15 feet they are easily recovered.

19. Q. If you were on your oath, now, and heard any one say that for every seal that was killed, male or female, one was lost, you would say it was a misstatement?—A. Yes; that is not so.

20. Q. If any one came here and said that for every seal you hit you killed another seal——?—A. That is nonsense.

21. Q. The highest percentage of loss, you say, would be 5 per cent. for sinking seals?—A. Yes; and I may say that I have taken seals with shot in them, dropped out when skinning, and they seemed as strong and healthy as ever.

22. Q. That is to say, that unless you shoot a seal in a vital part, the wound heals quickly?—A. Yes; and unless you hit it hard the seal gets away.

23. Q. You have seen females with young?—A. No; I never saw them carrying their young in the water.

24. Q. Down the coast the seals are pretty well divided, are they not?—A. Yes.

25. Q. The cows travel by themselves, and the bulls by themselves?—A. Yes.

26. Q. Did you say that you have caught more bull seals than cow seals during the season?—A. Yes, along the coast; but when I got up and up I got more bulls than cows.

27. Q. What months have you seen more cows in proportion than other months?—A. In February, March, and April.

28. Q. But even when you see more cows the average of the seals killed is in favour of the bulls, is it not?—A. No; it is about equal.

29. Q. You say the cows travel quicker towards the Behring's Sea?—A. Yes; when we get further up the cow seals seem to leave the bulls behind.

30. Q. Has it always been so?—A. Yes; I have got 181 seals in a day, and not a cow amongst them, but you sometimes get one. I think the average is about one in ninety.

31. Q. You always get more bulls than cows?—A. Yes, up there.

32. Q. How many out of every hundred seals you had on board your vessel last year would be females?—A. I think fully a half of them would be cows.

33. Q. How many of them would be bearing cows, and how many of them would be barren cows?—A. Of bearing cows, I think about 18 or 20 per cent. would be bearing cows. I do not think there would be so many as that. I had 2,000, and I think there would be only about 12 or 14 per cent. with pups; the others would be what are called barren cows, and a lot of them would be dry cows.

34. Q. With the barren cows and the ones bearing young you say would make up about half your catch?—A. Yes; about half and half.

35. Q. The proportion of males and females, though, depends upon the crowds or groups you get into?—A. Yes; it depends upon the band you strike.

36. Q. You never, at any time, had more females than males in any of your catches?—A. No, never.

37. Q. While in Behring's Sea during the last four years had you ever heard of any Canadian schooners "raiding" the Pribyloff Islands?—A. No. I never heard of any of my crew being engaged in such. Several of my crews told me of the American sealers raiding them, but I never heard of a Canadian vessel doing so.

38. Q. If you were bound to make a statement on your oath, you would say you believed no Canadian vessels ever raided the Pribyloff Islands for seals?—A. Not as far as I know.

39. Q. You believe, as a matter of fact, that the owners of Canadian sealers and their masters have never countenanced this raiding?—A. I believe that is the feeling that prevails among them all.

40. Q. You have heard mentioned the names of the American vessels that raided those islands?—A. Yes; I heard of the "Mollie Adams" and "George R. White," but not any others.

180 41. Q. You have not heard of any others?—A. No; I have not heard of any others.

42. Q. You have heard of vessels raiding the Copper Islands?—A. Yes; I have heard of the "Hamilton Lewis" and "Webster" raiding Copper Island.

43. Q. Those vessels you name are all American vessels?—A. Yes.

44. Q. Manned by American crews?—A. Yes.

45. Q. Have you any recollection of seeing any of those vessels in this (Victoria) Harbour?—A. No.

(Signed) THEO. M. MAGNESEN.

Sworn before me, this 23rd day of January, A. D. 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

Henry Crocker, hunter on board the schooner "Annie E. Paint," having been sworn:

65. Q. How long have you been engaged in sealing?—A. I have been hunting now for three years; this is my fourth.

66. Q. From your observation, do you think that the seals were as plentiful last year as they were during the previous seasons?—A. Yes; from what I saw of them I am sure they were just as many as before.

67. Q. In what months do the female seals seem to be the most plentiful in the sealing-grounds?—A. I believe that from February to May the females seem to predominate in numbers; that is, when the cows are getting heavier with young, they make for the islands sooner than the bulls.

68. Q. Is it more difficult to shoot a female seal than it is a bull?—A. The males are more easily killed than the females, owing to the inquisitiveness of the males, and the females being more shy, and also as they move along the water with only their nose visible.

69. Q. As an experienced hunter, what percentage of loss have you had by seals sinking?—A. It is very rarely that a seal will sink. I have been a whole season and have not had more than half a dozen sink during the whole season.

70. Q. Can you form any estimate of what your loss has been?—A. I would say not more than 3 to 4 per cent.

71. Q. Was the loss last year more than in previous years?—A. I could see no difference.

72. Q. As a reason for the small percentage of loss, you get very near the seals before shooting?—A. Yes, sir; the usual distance is within about 20 feet to a sleeping seal.

73. Q. If a man has a higher percentage of loss than that, he must be careless, you think?—A. Yes, I should say so, and not a first-class hunter, for there is no necessity for losing a seal.

74. Q. Does your percentage of loss agree with other hunters with whom you have conversed?—A. Yes.

75. Q. So that on the coast and in Behring's Sea the same percentage would apply?—A. Well, on the coast one does not very often sink a seal; but in Behring's Sea, if a cow, having delivered her pups, is shot, she will be more apt to sink, as the blubber is very much thinner. But, on the whole, I think the percentage will not be more than 3 or 4 per cent. of loss.

76. Q. Have you taken notice in hunting whether there are more females than males, or the reverse, taken?—A. There is fully 80 per cent. of bull seals killed off the coast, as well as in Behring's Sea. I think the reason for this is that the younger bulls are driven off by the older ones, who guard their particular herds.

77. Q. In the three years you have been in Behring's Sea has it always been your experience that there were more males caught than females? And in what proportion?—A. I say about the same as this year; I don't see any difference.

78. Q. Does your percentage of females taken agree with that of other hunters with whom you have conversed?—A. Yes.

79. Q. As an experienced hunter, then, you adhere to the statement that for
181 the whole seasons' catches for the years you have been hunting, that the percentage of seals caught will be about three males to one female?—A. Yes; about that.

80. Q. Do you include in that statement barren cows?—A. Yes.
81. Q. Have you any idea or reason of your own why the males come to predominate so much?—A. I think it is because the females make for the islands earlier than the young bulls and barren cows.
82. Q. Have you ever heard of any Canadian vessels raiding the seal islands?—A. No, Sir.
83. Q. You have never heard of any Canadian master or owner offering any inducement to hunters to raid the islands?—A. No, Sir.
84. Q. There has never been any bonus offered you to raid the islands?—A. No, Sir; while in Behring's Sea we are always too anxious to get away from the islands.
85. Q. If any Canadian vessels had raided the islands you would have likely heard of it?—A. Yes; I think it is impossible to keep it as quiet as that.
86. Q. You have heard of American vessels raiding the Copper and Pribyloff Islands?—A. I have heard it. I have known of the American vessels going into Sand Point just after they had raided the islands, and I was in Sand Point when one vessel was fitted out for the purpose of making a raid.
87. Q. The masters with whom you have sealed all seem to have avoided the islands?—A. Oh, yes; they keep away from the islands between 50 and 100 miles.

(The foregoing having been read over to the said Henry Crocker, he corroborates and substantiates the whole of the said statements.)

(Signed) HENRY CROCKER, *Hunter.*

Sworn to before me, at Victoria, British Columbia, this 18th day of January, 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

George Roberts, hunter on board the schooner "Annie E. Paint," being duly sworn, says:

55. Q. How long have you been engaged as a sealer?—A. I have been at seal-hunting for three years, one season as a hunter.
56. Q. Were the seals more plentiful last year than in previous years?—A. They were just about the same as regards number.
57. Q. How do the seals generally travel—in mixed numbers, males and females together?—A. The seals travel in bands of bulls and bands of cows, both by themselves.
58. Q. What is the proportion of seals lost by sinking after being shot?—A. Well, I should say that 3 to 5 per cent. would cover the whole loss. It is not more.
59. Q. What is the distance you are off a seal when you shoot, generally?—A. Well, from 20 to 30 feet for a sleeper, and for a traveller from 25 to 30 feet.
60. Q. What part of the seal do you aim at?—A. I aim at the head, as the best place, being the surest.
61. Q. Do you think there were any more female seals shot than males last year?—A. No; I think there were more males shot; in fact, I think that since I have been engaged in the business there have been more males killed than females.
62. Q. What months have you noticed more females than males?—A. In the months of March and April there are more females than at any other time. There are more females killed during those months than there are any other time.
63. Q. Have you ever heard of any of the Canadian vessels poaching on the seal islands?—A. I never did; I would have heard of it if there had been any. I have heard of the American raiders; but I do not know of a single Canadian vessel raiding a seal rookery.

182 64. Q. If a seal is sinking, does it go quickly or slowly?—A. If it is not too far away it can always be secured, as it does not go too quickly to get it.

(The above having been read to the said George Roberts, he corroborates and substantiates all of the foregoing statements.)

(Signed) GEORGE ROBERTS, *Hunter.*

Sworn to before me at Victoria, British Columbia, this 18th day of January, 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

Richard Thomson, hunter on board the schooner "Annie E. Painter," being duly sworn, says:

40. Q. How long have you been engaged in sealing?—A. I have been engaged as a hunter for two years.
41. Q. Were the seals as plentiful last year as they were the previous year, to your observation?—A. Yes; I believe they were.

42. Q. Were the seals apparently harder to approach than they were in previous years?—A. No; I can't say that I saw any difference.
43. Q. How do the seals generally travel?—A. As a rule the bulls travel separately, and quite a distance apart generally.
44. Q. What is your experience in hunting as to the number of seals lost after being hit?—A. I should think from 3 to 5 per cent. would cover all.
45. Q. What is the usual manner in which seals are lost?—A. Well, if the seal is in a certain position and shot so as to allow the air to escape, the seal will be lost. As long as the head sinks below the water first, the seal will not sink. They very rarely sink in any case.
46. Q. You carry a spear on a gaff, don't you?—A. Yes; it is carried to spear the seals when they are going down.
47. Q. From your experience in sealing, you consider that from 3 to 5 per cent. would cover the total loss of seals, after being shot, through sinking?—A. Yes.
48. Q. When you shoot a seal at a distance, and do not shoot them in a vital part, they make off, do they?—A. Yes.
49. Q. You don't consider that lost, then?—A. No; we don't consider the seal lost unless it sinks.
50. Q. Have you handled more males than females during the past two years?—A. I should say more males.
51. Q. Have you any idea of the proportion of males—would there be two males to one female?—A. I should say from 70 to 80 per cent., or about three males to one female.
52. Q. In what months do you consider that there are most females killed?—A. During the months of April and May. There are apparently more females, but not as many as males.
53. Q. You have never known of any Canadian schooners raiding the seal islands have you?—A. I have never heard of a Canadian, but I have of the American.
54. Q. During the time that you have been to Behring's Sea, you would have heard of it?—A. I would certainly have heard of it.
55. Q. You have always sailed out of this port?—A. Yes, Sir.

(The above having been read over to Richard Thomson, he corroborates and substantiates the same.)

(Signed) R. THOMSON, *Hunter.*

Sworn to at Victoria, British Columbia, before me, this 18th day of January, 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

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183 *Victoria, B. C., January 22, 1892.*

Andrew Laing, called and examined by Collector A. R. Milne:

1. Q. You are one of the oldest seal-hunters in the province, Mr. Laing?—A. I have been ten years at it.
2. Q. Your knowledge of sealing really goes beyond the present knowledge of the average sealer?—A. I have had as much experience as any of them; I think I know as much as any of them.
3. Q. Your observations on the west coast extend beyond the advent of the sealing business in Behring's Sea?—A. Yes. I went on the coast in 1871, and have been sealing with natives for the last twenty-one years.
4. Q. You had ample opportunity of observing the life and habits of the seals?—A. Yes.
5. Q. From those observations last year did you notice any perceptible or material decrease in the number of seals?—A. None whatever.
6. Q. It was generally reported last year they were more numerous than the year before?—A. Yes. I think if anything they were a little more numerous than 1890.
7. Q. Does that remark apply to full-grown?—A. To full-grown and mid-sized.
8. Q. What direction do the seals on the coast usually come from?—A. They come from the south, following the herring, which spawn on the west coast and different places, and the seal follow those fish into the shore or far out, as the case may be. The natives get a great number of these seals among a school of herring.
9. Q. What is the usual distance which the natives hunt away from shore?—A. In the spring they will hunt 10 or 15 miles off, later in the season 20 or 25 miles. I have seen them 40 miles from the land.
10. Q. How long does the hunting of the seal on the west coast usually last?—A. Commences in February, or the latter end of January, and lasts till the 1st June, when you get more or less seals; you can get a few stragglers in July.
11. Q. And the tendency of the seals is from the south?—A. Yes, following their food fish.

12. Q. You have been down the coast to where you meet the seals in their migration?—A. I have gone down as far as Shoal Water Bay, Columbia River.

13. Q. How do you meet the seals—in large bands or batches?—A. Yes, in schools, from two to twenty in a school.

14. Q. Do they seem to travel in pairs?—A. No, Sir.

15. Q. Do you find in these schools, or bunches, they are all males or females?—A. They are mixed. I remember an instance—I think in 1886—when we got on the coast off Cape Flattery either 104 or 109, am not positive, and out of that there were over 100 bull seals, and the next day we got about 86, and out of that number over 70 were bulls. That was in the year 1886.

16. Q. Would your observation lead you to suppose that your catch would depend entirely upon the group of bulls or females as to which your catch would be composed of principally?—A. As we get amongst them; yes.

17. Q. But taking one year with another—from 1886 to the present time—have you seen any more females killed than of bulls?—A. No, Sir. I think we have got about three males in five, and when we get up about the Bank, about Middleton Island, I think they will average more males than females.

18. Q. When you strike the seals on the coast about 40 or 50 miles from shore, do you find a large proportion of them sleeping?—A. They are generally sleeping. The Indians get none but sleeping seals. I have never been working with Whites.

19. Q. The natives approach the seals very close?—A. Yes; and he comes to the leeward of them, and if there is any sea on they get into the trough of the sea and make no noise. If he went to windward the seal would scent him, and get away.

20. Q. When he gets close enough he throws his spear, and seldom misses?—A. Yes; he don't miss one in ten.

21. Q. And when once his spear is fastened, the seal never gets away?—A. No.

22. Q. If an Indian loses more than what you say, he would not be a good hunter?—A. No good at all. It would not pay to "pack" him.

23. Q. Do the Indians ever shoot?—A. Sometimes. They never shoot if the seal is sleeping.

184 24. Q. Does that percentage of loss apply to the sleeping seals only?—A. Yes.

25. Q. You mean by "loss"—what?—A. By sinking.

26. Q. If the seal is wounded so it gets away, you don't consider it lost?—A. No.

27. Q. If speared and wounded, and scurried off, you don't consider it lost?—A. Oh, no; not lost.

28. Q. The Indian hunter is very close to the quarry, and rarely misses his aim?—A. Well, he will get within 25 or 30 yards of it.

29. Q. Have you noticed any marked difference in the manner in which the females carrying young travel as compared with the males?—A. The only difference I could see is that they will travel very fast for a little distance, and then turn up and rest.

30. Q. I mean, do they sink their bodies more?—A. No; they do not.

31. Q. Do you think the female is more shy than the male, that is those "with young"?—A. No. I think they are not any more shy. The female is always inclined to be sleepy. The male is always on the watch, and will rise till his head and shoulders are out of the water.

32. Q. One hunter has said that the female lies deep in the water, exposing only a portion of her head?—A. I have never noticed that. When lying asleep one-half of the head is under water.

33. Q. Then you will say that the percentage of loss of the Indian hunters is not more than how many in the hundred?—A. Not more than one in ten; not more than 10 per cent.

34. Q. You say you never hunted with white men until this year?—A. No.

35. Q. If any person made a statement that there is a greater amount of loss than what you say, you would not regard it as correct?—A. I would say it was not correct, with Indian hunters.

36. Q. Your statement is based upon actual experience?—A. Yes.

37. Q. In going down the coast in the spring, in February, March, and April, have you noticed that females are more plentiful than in the following months?—A. I do not think they are.

38. Q. But as they come from the south, you think they are not?—A. Between January and June, and between the south and the Shumigan Islands, have you noticed any time or place where there were any more females killed than others?—A. I think in May, I have noticed one thing: you will not find, take one in ninety, you will never find a female pup. Where the female young go to is something that the Commissioners ought to have found out before they came down from the sea.

39. Q. It has been stated that the Indians say there is no such thing as a female grey pup?—A. I have never seen one yet, and cannot account for it, unless the females go one way and the males another.

40. Q. Among all yearling grey pups, there has never been any one known to have found a female?—A. Yes, it is a fact. I have heard a great deal of talk of

females having young on the kelp, too, but I don't think that is so. Some hunters report of seeing pups off Middleton's Island, but I think that is impossible.

41. Q. Have you ever seen them cut a pup out of the female seal?—A. Yes; and I have seen the pup so cut out walk or move about the deck of the vessel, and I have tried to raise it. I have also thrown it into the water, and have seen it swim about like a young dog; I have seen it keep afloat for fifteen minutes, as long as the vessel was within sight. On the islands, the mother seal will take the young and force them into the water to teach them to swim. They will never take the water freely themselves for from six weeks to two months.

42. Q. You think they will swim 50 yards probably, or 100 yards?—A. Yes; but don't think they could live continually in the water if they were born in it.

43. Q. When you strike the seals on the west coast, what would you say was the usual distance per day that the seals travel?—A. That is impossible to say; it depends upon their food.

44. Q. That is, they linger longer over good food than otherwise?—A. Yes; I remember in, I think, 1888, where an Indian threw his spear at a seal, and his line broke, it was near the Shumigan Islands, and he took the same seal the next day—we lay-to all night—and he recovered his own iron spear-head. That might show the distance they move in, say, a night, because it did not travel far.

45. Q. When you lower your boats two Indians go to a canoe?—A. Yes, and both paddle.

185 46. Q. The Indian in the bow keeps his spear right before?—A. Yes.

47. Q. And he throws it at the animal, and strikes it where?—A. It makes no difference where they are hit. They try when shooting to hit in the head.

48. Q. When a seal is struck, or wounded, what time does it require to heal?—A. It heals very rapidly.

49. Q. What time does it require to get the seal aboard after it is speared?—A. Not more than two minutes when they spear, and not as long as that when they shoot it.

50. Q. What is the usual length of the sealing-boat?—A. About 20 feet.

51. Q. And the canoe?—A. About 22 feet.

52. Q. Is it not a fact that sealing in these small boats in the stormy spring months is a very hazardous undertaking?—A. Yes.

53. Q. It is commonly reported that our seal-hunters, both Whites and Indians, are more expert than any others on the coast?—A. That is so. They are the most expert.

54. Q. It is said also that unless the weather is very tempestuous nothing will retard them?—A. Yes; they go out every chance they can get.

55. Q. The loss of a full-sized skin meant the last two years how much to the hunter?—A. About 3 dollars per skin.

56. Q. What is the largest number which you ever saw an Indian canoe bring aboard in one day?—A. Forty-eight in one canoe, in Behring's Sea.

57. Q. On the coast, how many?—A. Thirty-four; that is over the average.

58. Q. In leaving the schooner, how far do the hunters, both Indians and Whites, go?—A. They go as far as 10 or 12 miles, sometimes 15 miles, from the vessel, till they can just see the tops of her sail.

59. Q. And this in pretty rough weather?—A. Yes; pretty rough. It might be smooth when they go out, but it often comes on rough before they can get back.

60. Q. In following the seals up the coast in February, March, and April, and May and June, where do you begin to get them in larger numbers?—A. Off Queen Charlotte Islands.

61. At this time, are the females in advance of the males, seemingly hastening to the sea?—A. They get through as soon as they can, the males in advance of the females—they haul out first.

62. Q. Some sealers think the cows go ahead?—A. The males haul out and each one gets his batch of females, and as the cows come in they make up their herd of females.

63. Q. Have you ever, when with sealers, heard the percentage of loss talked of?—A. No; I have never heard it mentioned with sealers.

64. Q. You speak from your experience with Indians? Your percentage of loss of 1 in 10 would be based on actual experience with Indian hunters?—A. Yes; 1 in 10.

65. Q. You have stated that in the month of May you think there would be more females than in the other months of the season? At that time what part of the ocean would you be?—A. Up off Queen Charlotte Island.

66. Q. You have also stated that the more plentiful the food, the slower the seals travel?—A. Yes; they stay longer where the food is.

67. Q. At the end of any of your seasons, have you actually counted the number of females you had in your cargo?—A. I have never done so.

68. Q. Have you any idea of your last year's catch, what proportion of females you had in the coast catch?—A. I think there would be about 3 males in 5—3 males to 2 females.

69. Q. That applies to the coast catch only?—A Yes; up to Kodiak.
70. Q. In the Behring's Sea, what proportion would it bear?—A. I think about 4 males in 5—4 males to 1 female.
71. Q. Were you in Behring's Sea last year?—A. The vessel was. The way I account for getting so many males was, during the beginning of July and August, when the females would be ashore nursing their young a greater part of the time.
72. Q. At any time in Behring's Sea, what has been your nearest point of hunting to the seal islands?—A. I have never been closer in hunting than 30 miles—usually 30 to 90 miles off. We got blown in there once, the only time I saw the island; we were within 10 miles of them then.
73. Q. You never saw or heard of any schooners, or spoke any schooner, who made a boast of raiding the islands?—A. None belonging to us. I heard of the
186 "Webster," "Mollie Adams," the "Hamilton Lewis," and the German schooner "Adele" raiding the islands.
74. Q. All these were American schooners?—A. Yes; except the "Adele."
75. Q. There is no doubt, then, among sealers, that these vessels did actually raid the islands?—A. It has been commonly reported, and I have no reason to disbelieve it.
76. Q. Did any of those vessels at that time belong to Victoria?—A. No; they did not.
77. Q. Can you advance any idea as to when the seals leave Behring's Sea?—A. To the best of my knowledge, about the middle of October.
78. Q. Is it the accepted idea that those seals which leave Behring's Sea in the fall are the same that return in the spring?—A. That is my opinion.
79. Q. You have never heard at any time any inducement ever offered by a captain or sailor from Victoria to ship men or to perform any work with the intention of raiding those islands?—A. Not from a Canadian vessel.
80. Q. It is a fact that every ship-owner and master of Canadian vessels has deprecated the raiding of the islands, that is, have never agreed with it?—A. They do not agree with it at all. Every one I have spoken to are very well satisfied to go into the sea and get their catch legitimately.
81. Q. You think there is ample field for hunting seals without raiding the islands?—A. Yes, I do.
82. Q. Is it your opinion, Captain Laing, that with the increased number of schooners here and in San Francisco, there will be any material injury to the sealing industry?—A. I do not think so.
83. Q. From observations made last year, you are quite of the opinion that the seals were more plentiful than you had ever seen them before?—A. They were more plentiful last year, 1891, than the year before, 1890.
84. Q. Is there any way you can account for that?—A. None whatever, unless it is the same as with any species of fish; some years you get more than others. There is no accounting for it.
85. Q. Referring to the number of females caught in the spring, there are quite a number of the female seals barren, or have never borne young? You have noticed it?—A. Yes; some are barren that have had young, and others that have not borne.
86. Q. When you speak of the proportion of females killed, you mean the barren cows as well as those that are bearing young?—A. Yes.
87. Q. Have you formed any idea of the general average or percentage of females carrying young killed in April and May?—A. I could not form any idea.
88. Q. Nor of barren cows?—A. No, Sir.
89. Q. Would you hazard a statement that all the females, both bearing and barren cows, were certainly less than the male seals taken?—A. Yes; certainly less in number.
90. Q. If any one were to make the bold statement that for every male seal killed there is a female killed, would it be correct?—A. That would not be correct.
91. Q. You have not heard any estimate of the percentage of barren females as compared with the bearing cows killed?—A. There are less of the barren cows killed in the spring than there are in the fall. I don't think that they go as far south as the cows that bear young.
92. Q. You say that in Behring's Sea the males preponderate?—A. Yes.
93. Q. You cannot account for this, you say, except it be that the females are all ashore bearing young?—A. The males we get in the sea are all 3- or 4-year-olds, which the old wigs would not let ashore at all.
94. Q. Are there any "rookeries" along the coast of any extent?—A. I have never heard of one this side of the Shumigan Islands.
95. Q. Year after year, hunting then, do you find them travelling along the same course?—A. Yes, where their food is, from 15 to 35 miles out.
96. Q. Your opinion is that the percentage of loss as compared with those hit would not exceed 10 per cent. with Indian hunters?—A. How do you mean lost?
97. Q. You say a seal hit and not killed is not lost if it escapes?—A. Yes.

98. Q. Then the proportion of loss in proportion to those killed is about how much—10 per cent?—A. It does not exceed that.

99. Q. In the number killed during the different months of the season, what is the proportion of males to females?—A. Three males to two females.

187 100. Q. As to the abstention of Canadian sealers from raiding the seal islands, you are quite positive that from your knowledge of sealing-vessel owners and masters, you give it as your direct opinion that no Canadian sealers ever raided those islands. You would say so upon oath in Court?—A. They never did to my knowledge.

101. Q. If such a thing had been attempted, it would, as a matter of fact, have leaked out?—A. Yes; it stands to reason the crews would have been unable to keep it to themselves.

102. Q. They would tell it either to their associates on board or after getting ashore?—A. They could not keep it.

103. Q. After the hunters get aboard at night, they usually recount whether they lost any seals, and in speaking of their loss, it would mean those seals that would sink, not those that escape?—A. If they lost any, they would not tell it at all, but if they sunk any, they would speak of it.

104. Q. You are at present a ship-owner, Captain Laing?—A. Yes.

105. Q. You have had great opportunities of hearing from all sources matter relative to the seal fishing?—A. Yes.

106. Q. Has it been noticed that the skins taken last year in the Behring's Sea were smaller than usual?—A. About the same general size.

107. Q. Is it generally known that the seals caught on the Copper Island are better than the average?—A. I have never seen them, but it is reported they are better.

108. Q. It is reported also that seals caught in January, March, and April are better than any in Behring's Sea; they say the fur is better?—A. They say so, but I don't know that you can see any difference.

109. Q. It has been said that the fur of the seals caught during the winter and spring months is light? The fur of all animals in cold climates is thicker in winter?—A. I have never noticed that with seals.

110. Q. A few years ago it was said that the Behring's Sea skins were the best?—A. It has been so reported, but I don't think there is any difference.

111. Q. The "grey pup" of this year will be a "brown pup" next year?—A. Yes; a "2-year-old" or "brown pup."

112. Q. Do the hunters usually follow the grey pups with the same zeal as they do the other seals?—A. They can't tell the difference till they are actually "on top of them."

113. Q. And they are apt to shoot little as well as big?—A. Yes; everything they come across.

114. Q. Were the Indian hunters more successful last year than Whites?—A. No, they were not. It was a "stand off" between them. The only difference is that the Whites will risk more than the Indians.

115. Q. The expensive wages, cost of outfitting schooners, considered, don't you think that 4 dollars per skin a high figure for hunters?—A. It is.

116. Q. How many boats does the average schooner carry?—A. About six and the stern boat.

117. Q. And each boat takes three white men?—A. Yes, a hunter, a boat-puller, and a boat-steerer.

118. Q. The ship furnishes the boat, guns, and outfit?—A. Yes, the whole outfit of guns, ammunition, provisions, wages for the two men, and pays the hunter so much per skin.

119. Q. At the present time, how much per skin?—A. 3 to 4 dollars.

120. Q. With Indian crews?—A. They furnish their own canoe, spears, and outfit; one Indian steers; but the vessel finds them in provisions only. The last two or three seasons some vessels have supplied guns and ammunition.

121. Q. Does the Indian get 4 dollars per skin; does he out of that pay his own boat-helper?—A. Yes, he pays out of his rate per skin. The ship pays the steerer nothing.

122. Q. Therefore, if the Indian crews were as profitable, they are the cheapest; if they get as many skins?—A. Yes, if you can get them.

123. Q. Is the Indian a good hunter, in your experience?—A. Yes, Sir.

124. Q. Bold and intrepid?—A. Yes, when he is in his canoe nothing will scare him. I have seen an old bull seal capsize a canoe, and the Indians would get into it again, bail the water out, and go on hunting as though nothing had happened.

125. Q. Is the Indian lazy, or does he seem anxious to proceed in the hunt from
188 day to day?—A. In fine weather, yes, but when the sea is "choppy" he would usually rather stay aboard.

126. Q. His canoe is not quite so strong as the sealing-boat?—A. No, not quite.

127. Q. Have there been many accidents among the Indians—loss of life?—A. Not since, I think, 1887, when a schooner foundered with all aboard.

128. Q. Do you think that as the years pass along the Indians, as well as the Whites, get more expert in seal-hunting?—A. Yes, they do.

129. Q. Notwithstanding all the ships in the fleet on the ocean, you would adhere to your statement that you don't think there is any noticeable decrease in the number of seals?—A. Yes; I do not think so. If the vessels had been let alone in Behring's Sea last year, we would have had a bigger catch than any previous year.

130. Q. Do you think, Captain Laing, if they would cease killing seals in the Pribyloff Islands it would increase the number of seals on the coast?—A. I think it would.

131. Q. If the rookeries were undisturbed by anything, you think the seals would be more plentiful?—A. I do.

132. Q. Have you any opinion to offer as to killing seals on the islands doing more harm than anything else?—A. I think the American people are doing more harm by killing seals and interfering with them on their rookeries or seal islands than we hunters do on the coast.

133. Q. You have never heard of any rookery along the coast?—A. I never heard of one. There is a rookery of sea lion off Queen Charlotte Island, but I never heard of any of seals.

(Signed) A. D. LAING.

Sworn before me, this 25th day of January, A. D. 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

January 25, 1892.

William Cox, present master of the schooner "Sapphire," of Victoria, called and examined by Collector Milne:

1. Q. You are engaged in the sealing business, Captain Cox?—A. Yes, I have been master of the sealing schooner "Sapphire" for the last four years.

2. Q. How many boats do you carry in your outfit?—A. I carry canoes and an Indian crew.

3. Q. With the exception of how many white men to navigate?—A. Seven white people I carry for navigating the vessel.

4. Q. The number of Indians?—A. The last two years I have had twenty-eight north to Behring's Sea.

5. Q. And how many canoes?—A. Fourteen canoes.

6. Q. Had you more canoes on the coast?—A. Yes, I have had twenty-four canoes while on the coast.

7. Q. When you finally leave for Behring's Sea, you drop a number of the Indians, and only take about fourteen canoes with you?—A. Yes.

8. Q. Do you prefer Indian crews to white men?—A. Yes, I do.

9. Q. What are your reasons for the preference?—A. Well, I get along better with them for one thing; there is more honour among them than among the average white crew in this business. They don't make an agreement to-day, and break it to-morrow if they see a chance to make a little more.

10. Q. And they don't quarrel among themselves?—A. No; and you can generally trust them more.

11. Q. They are more profitable too, are they not?—A. Yes, a little more.

12. Q. They furnish their own canoes?—A. Yes, and spears and boatmen; and it is not such a heavy outfit, but their canoes are light and easily broken by the heavy seas.

13. Q. They are better then aboard a large vessel?—A. Yes, but you have to be very careful—the canoes are "dug-outs" and easily shattered.

14. Q. Apart from getting along easier with the Indians, the experience is
189 just about the same as with a white crew?—A. Yes, the skins cost about the same in the end.

15. Q. Do the Indian crews venture out during the stormy weather as much as the white men?—A. Yes, almost as freely. I have had the same crew so long now that they will do anything I wish them to do.

16. Q. Do you take them down the coast?—A. Yes, and up the coast and on into Behring's Sea.

17. Q. They spear all their seals?—A. The greater number of them, yes, but sometimes shoot; they spear all the "sleepers."

18. Q. What proportion do you think they shoot?—A. They shoot, probably, twenty out of the hundred; but I think now the fleet is getting so large there are more wake seals, that consequently they did more shooting with me last year than ever before. *They* never shoot a sleeping seal.

19. Q. Do you think the seals are getting more shy on account of the larger fleet of vessels?—A. Yes, they are much more shy.

20. Q. Do the Indians approach the seals from leeward?—A. No; the Indian always goes "across on the wind;" he pulls up almost in range of it, and goes across the wind. They have a sort of idea that the seal sleeps with one eye open, hence the way they approach.

21. Q. When they heave the spear, the barb holds fast?—A. Yes; if they strike the seal at all, they cannot lose it.

22. Q. Therefore the percentage of seals killed by Indians and lost would be very small?—A. I would really count it nothing. If they did lose one by the spear pulling out of the blubber it would not kill the seal, as it heals so quickly again.

23. Q. The barb holds them, and they have no chance to sink?—A. Yes.

24. Q. Therefore the percentage of loss is nothing?—A. I would not reckon it anything.

25. Q. The loss they make is only when firing at a travelling seal?—A. Yes.

26. Q. And that loss would be by the animal escaping?—A. Yes.

27. Q. You would not consider it lost, then?—A. No. If not hit in a vital part it is not lost, for the Indian fires at a close range, and there are two in a boat, and almost sure of it before the shot is fired, because they can't sink far before they are right on to it.

28. Q. So the percentage of the seals lost by Indian hunters, "sleeping" and not "travelling," would be how much?—A. With sleeping seals there is no loss. In travelling seals there are none lost, only in escaping. Last year I saw a great number of seals brought in that had been shot before.

29. Q. From personal knowledge and observation, you are satisfied that a flesh-wound made in the seal would heal rapidly and not injure the seal?—A. Yes; the shot seems to strike in the fatty parts or blubber, and does not seem to hurt the animal, as it closes over and soon heals.

30. Q. In the months of February, March, and April, have you seen a marked number of female seals bearing young killed?—A. Yes; in winter there are a number.

31. Q. Does that mean "barren" cows?—A. No; on the coast we get them "with young." I have not seen many "barren cows" out here in winter.

32. Q. During the months of February, March, and April, what would you say was the proportion of males to females?—A. I have only done one winter's sealing, and that winter they would be fully one-half females during February and March.

33. Q. That is, there would be as many females as bulls and grey pups?—A. Yes; I have never seen a female grey pup on the coast. That is a yearling grey female seal; that is corroborated by the Indians. All the yearlings seen by me have been males.

34. Q. That is well known, you say, by the Indians?—A. Oh, yes. They remark this.

* * * * * * *

38. Q. But there is a larger number of males killed than females in April, May, and June?—A. Yes; in those three months we get a larger number of males; bulls from 3 to 4 years old; all about the same size.

39. Q. Your opinion is that the females, after the month of May, hasten on to the Behring's Sea?—A. Yes.

40. Q. Now, from the beginning of the sealing season, when you start out
190 this time of year (January), till the time you enter Behring's Sea, what is your opinion as to the percentage of female seals, including both bearing and barren cows, killed? What would be the proportion of female seals, including both bearing and barren cows, killed? What would be the proportion of females as compared with the bulls?—A. Right up to the Shumigan Islands?

41. Q. Yes. Would it be 60 per cent., or 70 per cent., or what?—A. Yes, I think it would be about 65 or 70 per cent. of males, and the remainder mixed cows—bearing and barren cows.

42 Q. About what percentage of barren cows?—A. I think about equally divided: about 15 per cent. of barren and 15 per cent. of bearing cows, and 70 per cent. of bulls, would pretty near represent the catch on the upper and lower coast.

43. Q. There is an opinion expressed that a seal pup will not swim; some people say so?—A. I have seen three with their dams in the water on the Alaskan coast.

44. Q. How far from shore?—A. 40 or 50 miles from shore, in the month of June.

45. Q. Is it your opinion that they would be born in the water?—A. Yes, or on the kelp. Seals mate in the water, sleep in the water, and I have seen pups taken from the dead mother on the vessel, and thrown overboard and swim about awhile in the water. I have watched such pups swim about for half-an-hour or more. They seemed to have no difficulty in swimming.

46. Q. You have never seen or heard of a Canadian sealing-schooner attempting to raid the Pribyloff Islands?—A. I have never heard of one.

47. Q. If such a thing had been done or attempted it would be sure to be known among sealers?—A. Yes; it would be impossible to keep it a secret.

48. Q. Is it your opinion that our ship-owners and masters have done everything they could possibly do to discourage anything of that kind?—A. Yes; everything.

49. Q. What has been the general distance you have sealed—the distance from the seal islands?—A. From 100 to 140 miles. I was within 80 miles of them last year; that was the nearest I was to them.

50. Q. Of course your men on board would, if they had ever been engaged in such raiding of the islands, certainly have told their fellows?—A. Yes, it would soon have become known.

51. Q. It is well known to all sealers that certain schooners have raided those islands?—A. Yes, during 1889 and 1890.

51*. Q. Do you remember what their names are?—A. Yes; the American schooner "Mollie Adams," "George R. White," and others.

52. Q. Do you remember any other schooner raiding the islands?—A. Yes; the German schooner "Adele."

53. Q. It was well known that it was a German vessel?—A. Oh, yes.

54. Q. Those American vessels that raided the Pribyloff Islands recruited their crews—where?—A. I think the "Mollie Adams" recruited her crew at Gloucester.

55. Q. In the United States?—A. Yes; she fitted up in Port Townsend, Washington.

56. Q. Did you ever hear of any American vessels fitting out at Sand Point to raid the islands?—A. I do not remember it.

57. Q. Were you ordered out of Behring's Sea last year?—A. Yes.

58. Q. By whom?—A. The British steamer "Porpoise."

59. Q. On being ordered out of the Sea, you immediately complied?—A. Yes; I came right away.

60. Q. Did you lower your boats afterwards?—A. I did not. I came right out of the Sea.

61. Q. What month was that?—A. 9th August.

62. Q. Had you not been ordered out, were you in good hunting ground?—A. Oh, yes.

63. Q. Were the seals plentiful at the time you were warned; that is, as plentiful as you had previously seen them?—A. Yes; just as thick as ever.

64. Q. What was your catch up to the time you were warned out?—A. 2,434 in Behring's Sea.

65. Q. What was your coast catch?—A. 1,008 on the coast, and 2,434 in the Sea.

66. Q. Had you been unmolested for another thirty days your chances were
191 good for a large catch?—A. Yes; our chances were good for quite doubling our catch.

67. Q. Your principal ground for sealing you found—where?—A. About 100 miles westward of the Islands of St. George and St. Paul. I took 1,000 in four days there.

68. Q. During that time, when you were getting seals so quickly, was your percentage of loss greater there than on the coast?—A. No; they were very quiet.

69. Q. You have stated that, from your personal observation, you think the seals were as plentiful last year as you have ever seen them in Behring's Sea?—A. Yes; much more so than I ever saw them before.

70. Q. More so at a distance of 100 to 130 miles from the nearest seal island?—A. Yes.

71. Q. What course would that lie from the Pribyloff Islands?—A. About west.

72. Q. At the time you were sealing there were there any other Canadian schooners in your company?—A. Yes; the "Annie C. Moore," the "Carmelite," and the "Ariel." They had all an average catch.

73. Q. Have you ever heard of the McLeans raiding Copper Islands?—A. Yes.

74. Q. Do you believe they did actually raid them?—A. Yes.

75. Q. Did you hear the story of their going, with three boats of the "Webster" and "City of San Diego" in a crowd, landing at a passage between the rocks and the mainland of the island, and standing there, where the water was swift, and shooting the seals as they passed through?—A. Yes; but they lost a great many. The captain of the "San Diego" said that they didn't get one-tenth of what they shot.

76. Q. It is the prevailing opinion among the sealers that the "J. Hamilton Lewis" was seized for landing on the islands?—A. Yes; the Russians had been watching her. She was seized for actually raiding the islands.

77. Q. You didn't go to the Copper Island side at all?—A. I did not.

78. Q. In leaving Behring's Sea, where did you come out through?—A. Through the Four Mountain Pass.

79. Q. After you had been warned out, did you speak any other cutter?—A. I did not.

80. Q. Did you see any seals from the time you were warned out till the time you came through the pass?—A. They were just as thick as ever within 40 miles of the

Four Mountain Pass. We were two days sailing through them. It grieved us very much, I can tell you, to sail through seals and couldn't touch them.

81. Q. The Four Mountain Pass is about what longitude?—A. "172 Pass" we call it.

82. Q. But you say there were plenty of seals from the time you were warned up to within 40 miles of this pass?—A. Yes; just as thick as where we had left.

83. Q. Will you state in direct evidence, as though in Court, that, as far as your knowledge goes, no Canadian sealer, directly or indirectly, ever raided or attempted to raid the seal islands?—A. I have had ample opportunity of learning if such had been the case, and I know of none.

Captain Cox, continuing, said: I didn't take one "bearing" female seal last season in Behring's Sea. I have taken a few which were evidently "with milk."

84. Q. What percentage do you say?—A. There might be 5 per cent. of what I took which had had young; there was evidence of having had young; whether they had last year or not I do not know.

(Signed) WILLIAM COX.

Sworn before me this 25th day of January, 1892.

(Signed) A. R. MILNE, *Collector of Customs.*

TREATY SERIES. No. 8. 1892.

TREATY AND CONVENTION

BETWEEN

GREAT BRITAIN AND THE UNITED STATES OF AMERICA

RELATING TO

BEHRING'S SEA.

Signed at Washington, February 29 and April 18, 1892.
Ratifications exchanged at London, May 7, 1892.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HER MAJESTY.

MAY, 1892.

TREATY AND CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA RELATING TO BEHRING'S SEA.

No. 1.

TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA. ARBITRATION RESPECTING THE SEAL FISHERIES IN BEHRING'S SEA.

Signed at Washington, February 29, 1892.

[Ratifications exchanged at London, May 7, 1892.]

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, being desirous to provide for an amicable settlement of the questions which have arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, have resolved to submit to arbitration the questions involved, and to the end of concluding a Convention for that purpose have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pauncefote, G. C. M. G., K. C. B., Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and the President of the United States of America, James G. Blaine, Secretary of State of the United States;

Who, after having communicated to each other their respective Full Powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

ARTICLE I.

The questions which have arisen between the Government of Her Britannic Majesty and the Government of the United States concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, shall be submitted to a Tribunal of Arbitration, to be composed of seven Arbitrators, who shall be appointed in the following manner, that is to say: two shall be named by Her Britannic Majesty; two shall be named by the President of the United States; his Excellency the President of the French Republic shall be jointly requested by the High Contracting Parties to name one; His Majesty the King of Italy shall be so requested to name one; and His Majesty the King of Sweden and Norway shall be so requested to name one. The seven Arbitrators to be so named shall be jurists of distinguished reputation in their respective countries; and the selecting Powers shall be requested to choose, if possible, jurists who are acquainted with the English language.

In case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or in the event of any or either of the said Arbitrators omitting or declining or ceasing to act as such, Her Britannic Majesty, or the President of the United States, or his Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, as the case may be, shall name, or shall be requested to name forthwith, another person to act as Arbitrator in the place and stead of the Arbitrator originally named by such head of a State.

And in the event of the refusal or omission for two months after receipt of the joint request from the High Contracting Parties of his Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, to name an Arbitrator, either to fill the original appointment or to fill a vacancy as above provided, then in such case the appointment shall be made or the vacancy shall be filled in such manner as the High Contracting Parties shall agree.

ARTICLE II.

The Arbitrators shall meet at Paris within twenty days after the delivery of the counter-cases mentioned in Article IV, and shall proceed impartially and carefully to examine and decide the questions that have been or shall be laid before them as herein provided on the part of the Governments of Her Britannic Majesty and the United States respectively. All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent to represent it generally in all matters connected with the arbitration.

3 ARTICLE III.

The printed Case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding four months from the date of the exchange of the ratifications of this Treaty.

ARTICLE IV.

Within three months after the delivery on both sides of the printed case, either party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other party, a counter-case, and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other party.

If, however, in consequence of the distance of the place from which the evidence to be presented is to be procured, either party shall, within thirty days after the receipt by its Agent of the case of the other party, give notice to the other party that it requires additional time for the delivery of such counter-case, documents, correspondence, and evidence, such additional time so indicated, but not exceeding sixty days beyond the three months in this Article provided, shall be allowed.

If in the case submitted to the Arbitrators either party shall have specified or alluded to any Report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after delivery of the Case; and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding forty days after receipt of notice.

ARTICLE V.

It shall be the duty of the Agent of each party, within one month after the expiration of the time limited for the delivery of the counter-case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other party a printed argument showing the points and referring to the evidence upon which his Government relies, and either party may also support the same before the Arbitrators by oral argument of Counsel; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by Counsel, upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

4 ARTICLE VI.

In deciding the matters submitted to the Arbitrators, it is agreed that the following five points shall be submitted to them, in order that their award shall embrace a distinct decision upon each of said five points, to wit:

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring Sea, were held and exclusively exercised by Russia after said Treaty?

4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. Has the United States any right, and, if so, what right, of protection or property in the fur-seals frequenting the islands of the United States in Behring Sea when such seals are found outside the ordinary 3-mile limit?

ARTICLE VII.

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determination, the Report of a Joint Commission, to be appointed by the respective Governments, shall be laid before them, with such other evidence as either Government may submit.

The High Contracting Parties furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations.

ARTICLE VIII.

The High Contracting Parties having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it; and, being solicitous that this subordinate
5 question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims, and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

ARTICLE IX.

The High Contracting Parties having agreed to appoint two Commissioners on the part of each Government to make the joint investigation and Report contemplated in the preceding Article VII, and to include the terms of the said Agreement in the present Convention, to the end that the joint and several Reports and recommendations of said Commissioners may be in due form submitted to the Arbitrators, should the contingency therefor arise, the said Agreement is accordingly herein included as follows:

Each Government shall appoint two Commissioners to investigate, conjointly with the Commissioners of the other Government, all the facts having relation to seal-life in Behring's Sea, and the measures necessary for its proper protection and preservation.

The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

These Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise.

ARTICLE X.

Each Government shall pay the expenses of its members of the Joint Commission in the investigation referred to in the preceding Article.

ARTICLE XI.

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States for his Government.

ARTICLE XII.

Each Government shall pay its own Agent, and provide for the proper remuneration of the Counsel employed by it and of the Arbitrators appointed by it, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

6 ARTICLE XIII.

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

ARTICLE XIV.

The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration as a full, perfect, and final settlement of all the questions referred to the Arbitrators.

ARTICLE XV.

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate, at Washington, the 29th day of February, 1892.

[L. S.] JULIAN PAUNCEFOTE.
[L. S.] JAMES G. BLAINE.

No. 2.

CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES OF AMERICA. MODUS VIVENDI IN BEHRING'S SEA.

Signed at Washington, April 18, 1892.

[Ratifications exchanged at London, May 7, 1892.]

Whereas, by a Convention concluded between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America on the 29th day of February, 1892, the High Contracting Parties have agreed to submit to arbitration, as therein stated, the questions which have arisen between them concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal in, or habitually resorting to, the said sea, and the rights of the subjects and citizens of
7 either country as regards the taking of fur-seal in, or habitually resorting to, the said waters; and whereas the High Contracting Parties, having differed as to what restrictive regulations for seal hunting are necessary during the pendency of such arbitration, have

agreed to adjust such difference in manner hereinafter mentioned, and without prejudice to the rights of either party:

The said High Contracting Parties have appointed as their Plenipotentiaries to conclude a Convention for this purpose, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pauncefote, Knight Grand Cross of the most distinguished Order of St. Michael and St. George, Knight Commander of the most honorable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States;

And the President of the United States of America, James G. Blaine, Secretary of State of the United States;

Who, after having communicated to each other their respective Full Powers, found in good and due form, have agreed upon and concluded the following Articles:

ARTICLE I.

Her Majesty's Government will prohibit, during the pendency of the arbitration, seal killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

ARTICLE II.

The United States Government will prohibit seal killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof, the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States citizens and vessels.

ARTICLE III.

Every vessel or person offending against this prohibition in the said waters of Behring Sea, outside of the ordinary territorial limits of the United States, may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

8 ARTICLE IV.

In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with a view to the presentation of the case and arguments of that Government before the Arbitrators, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or remain upon the seal islands, during the sealing season, for that purpose.

ARTICLE V.

If the result of the arbitration be to affirm the right of British sealers to take seals in Behring's Sea within the bounds claimed by the United States, under its purchase from Russia, then compensation shall be made by the United States to Great Britain (for the use of her subjects) for abstaining from the exercise of that right during the pendency of the arbitration upon the basis of such a regulated and limited catch or catches as in the opinion of the Arbitrators might have been taken without an undue diminution of the seal herds; and, on the other hand, if the result of the arbitration shall be to deny the right of British sealers to take seals within the said waters, then compensation shall be made by Great Britain to the United States (for itself, its citizens, and lessees) for this agreement to limit the island catch to 7,500 a season, upon the basis of the difference between this number and such larger catch as in the opinion of the Arbitrators might have been taken without an undue diminution of the seal herds.

The amount awarded, if any, in either case, shall be such as under all circumstances is just and equitable, and shall be promptly paid.

ARTICLE VI.

This Convention may be denounced by either of the High Contracting Parties at any time after the 31st day of October, 1893, on giving to the other party two months' notice of its termination, and at the expiration of such notice the Convention shall cease to be in force.

ARTICLE VII.

The present Convention shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged, either at London or at Washington, as early as possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done in duplicate, at Washington, the 18th day of April, 1892.

(Signed) JULIAN PAUNCEFOTE.
JAMES G. BLAINE.

BEHRING SEA ARBITRATION.

APPENDIX

TO

CASE OF HER MAJESTY'S GOVERNMENT.

VOLUME IV.

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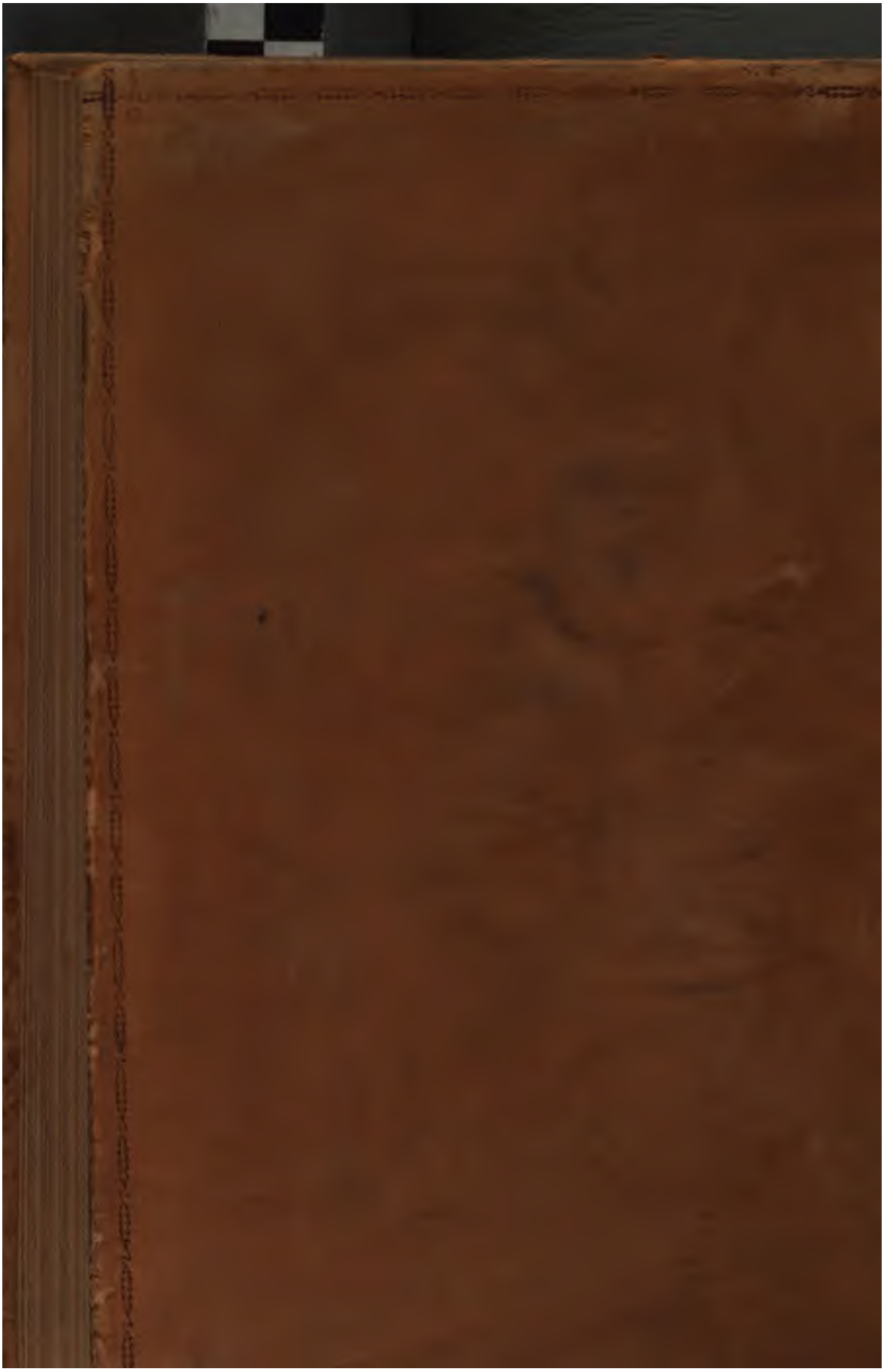
PART 2.—Map of the Northern Portion of the North Pacific Ocean.